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ABSTRACT

This document examines the state of regulated professions, as defined by Council of the European Communities Directive 92/51/EEC, in those Central and Eastern European countries that are candidates for admission into the European Union. The introduction discusses Council Directive 92/51/EEC, previous directives, and the national case studies on regulated professions on which this report is based. Chapters 2-4 review the following aspects of the directive's implementation: (1) scope of Council Directive 92/51/EEC (categories of regulated professions and activities in the candidate countries and the directive's scope in relation to other directives); (2) levels of the general system directives (division of professions into levels, bridges between levels, attestation of competence); and (3) ways of implementing the directive (vertical versus horizontal approaches, candidate countries' legislative framework, current regulations on foreigners' access and bilateral agreements). The following aspects of the directive's administration are discussed in chapters 5-8: role of the competent authorities; role of the national coordinator; general trends; and recommendations regarding European Training Foundation contributions to future activities. Appended are a description of the model of implementation of the general system for mutual recognition of qualification papers in Denmark and a discussion of the scope of the second general directive in Denmark. (MN)

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REPORT

A cross-country report on "The state of play of regulated professions, as defined by Council Directive 92/51/EEC, in the candidate countries of Central and Eastern Europe"

European Training Foundation

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Professional qualifications

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A cross-country report on "The state of play of regulated professions, as defined by Council Directive 92/51/EEC, in the candidate countries of Central and Eastern Europe"

Prepared by Winkler Kromann
Former national coordinator, Denmark

June 1999

European Training Foundation

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Foreword

This report, which has been prepared for the European Training Foundation in Turin, is based mainly on reports prepared by national experts on "Regulated Professions or Professional Activities covered by the Council Directive 92/51/EEC" in the candidate countries.

The **overall objectives** of the cross-country report are:

> *"... to reinforce the awareness and capacity of the candidate countries to address the approximation issues in the area of mutual recognition of professional qualifications as well as to facilitate communication and exchange of information on regulated professions between the EU and candidate countries."*

The **immediate objective** is:

> *"...by providing a comparative perspective, to contribute to furthering the understanding of the situation in the candidate countries with regard to the regulated professions covered by Council Directive 92/51/EEC."*

It **is expected** that:

> *"... the report will provide a comparative analysis of the main issues arising from the national reports, and, on the basis of this analysis, will put forward proposals on priority areas and activities to which the Foundation could usefully contribute in the near future."*

The report will, therefore, focus on the issues which are of relevance to its objectives and expected outputs. It will in particular look into issues which are important for the administration of the directive, once it is implemented, as provision for administration is an essential element of implementation.

It is divided into two parts.

The first part deals with the scope of the directive. It includes a description of the state of play of regulated professions in each of the candidate countries and highlights the key issues as regards the implementation of the directive.

The second part is concerned with the administration of the directive once it is implemented and with the roles of the national coordinator and of the competent authorities. This part will deal particularly with the provisions for recognition.

The report is based, primarily, on the information contained in the experts' reports. It is also draws on the outcomes of the related debates that the author has participated in in the countries over the last two years.

It aims at assisting the people involved in mutual recognition in all the candidate countries. Similar problems, particularly with regard to the recognition procedure, arise again and again all over the EU and although a particular problem may not be mentioned in the report of a candidate country now, it could well arise at a later date.

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1. Introduction

1.1 *The background to Council Directive 92/51/EEC*

The free movement of persons, services and capital is one of the main pillars of the EU and therefore the abolition of obstacles to freedom of movement of persons and services, pursuant to Article 3 c) of the Treaty of Rome, is one of the objectives of the Union.

What this article means for nationals of the Member States is that, among others, they should be able to pursue a profession in a Member State other than that in which their professional qualifications are awarded.

Regulation of a profession in a Member State, either by the requirement of certain qualifications or by the restriction of the right to use the professional title to persons holding the requisite national degrees, diplomas or certificates, constitutes an obstacle to free movement.

The regulations on free movement are set out in Part 3, Title III of the Treaty.

- Workers (Chapter 1, Articles 48 to 51),
- Right of Establishment (Chapter 2, Articles 52 to 58), and
- Services (Chapter 3, Articles 59 to 66).[1]

Freedom of movement entails the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment. (See Article 48, par. 2.)

In order to abolish such discrimination, Article 57[2] (in Chapter 2, Right of Establishment) empowers the Council to issue Directives for the mutual recognition of diplomas, certificates and other evidence of qualifications. Council Directive 92/51/EEC is one such directive.

1.2 *Preliminary remarks on Council Directive 92/51/EEC*

Council Directive 92/51/EEC (known as the Second Directive) is a supplement to Council Directive 89/48/EEC "... on a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration" (known as the First Directive). The Second Directive covers recognition of education and training at lower levels than the level covered by the First Directive. The two directives together are referred to as the general system and, apart from the different levels of qualification they deal with, the provisions of the two are almost identical. What is said below applies, therefore, to the First, as well as to the Second Directive.

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1 As a result of the Amsterdam Treaty, which entered into force on 1 May 1999, the numbers of the Articles in Part Three, Title III, have changed. In Chapter 1, Articles 48 to 51 have become Articles 39 to 42. In Chapter 2, Articles 52 to 58 have changed to Articles 43 to 48 and, in Chapter 3, Articles 59 to 66 have become Articles 49 to 55. The old numbering is used in this report as Court Cases and the literature refer to that numbering.

2 Now Article 47

The core precondition of the general system is that the professional activity which an applicant is entitled to exercise in one Member State is identical to that for which he seeks recognition in another Member State.

The underlying principle is that of mutual trust and the directives, therefore, require no harmonisation of national education and training programmes.

In compliance with this basic idea, the general system introduces a recognition procedure. This is different from the academic procedure, which involves a detailed examination of the content, structure and level of the diploma, certificate or other evidence of formal qualifications presented.

1.3 *Previous directives*

Before the introduction of the general system for the recognition of qualifications, a considerable number of Directives had been adopted through a sectoral approach. What these Directives had in common is that they sought to tackle the issue of recognition on a profession-by-profession basis. However, as these took a long time to prepare, only a few were adopted (mainly related to professions in the medical sector) and it was decided to abandon this approach for that of the general system.

Previous directives also included the so called transitional directives (mainly concerning professions in industry and the craft sector), which stipulate that the criteria for access to regulated professions is professional experience of a certain number of years.

Another common feature of the earlier directives is the provision that recognition of applicants is automatic if the minimum quantitative and qualitative criteria specified in the directives are met. This is not the case with the general system. A host Member State may require applicants to compensate for substantial differences between their education and training and that required by its own system.

1.4 *The national case studies on regulated professions in the candidate countries*

According to the author, who has worked for many years with the implementation and administration of the two directives of the general system and has taken part in the negotiations on the Second Directive, the reports produced by the national experts in the candidate countries are both extensive and satisfactory. They go a long way towards laying the ground for the implementation of the Second Directive which may, in fact, take far longer than expected.

Before a Directive for mutual recognition can be implemented within the general system, it is necessary:

- to identify the professions and professional activities covered;
- to establish who the competent authorities for the regulation of these professions and professional activities are; and
- to appoint a national coordinator.

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Harmonisation of educational requirements is not required and, since this is the case, the directive has no bearing on national education and training programmes.

Many of the national reports, nevertheless, deal with this issue. One report states:

> *"As regards teachers, Directive 92/51 regulates only kindergarten teachers, teachers in basic schools of art, vocational teachers and driving instructors. For other teaching positions, a university diploma is required."*

Strictly speaking, this is not correct. The directive does not, as yet, lay down what the formal requirements for teachers should be and a Member State can organise the education and training of any kind of teacher to fit any of the three levels of the general system.

Some of the reports also reflect a concern about the issue of how non-nationals can pursue their professional activities in their country or, vice versa, how their nationals can exercise their professions abroad. The recognition of qualifications may be problematic now and again. Generally speaking, however, the recognition procedure in the general system is simple and every profession is to be assigned to one of the three levels of the system. Furthermore, with one exception, there are bridges established between these different levels.

In some of the reports the experts list only those regulated professions and professional activities which, in their opinion, are covered by the Second Directive. In others, all the professions and professional activities that are regulated in the candidate country are included. In both cases, however, many of the professions and activities listed are covered by one of the transitional directives or they are exempt by virtue of Article 48, paragraphs 3 and 4, of the Treaty of Rome.

Furthermore, some of the professions listed are, strictly speaking, not regulated professions at all but are considered to be so because education and training for these professions is regulated. The fact that education and training for a profession is regulated does not mean that the profession itself is a "regulated profession", as defined by the directive.

The Second Directive covers those professions and professional activities for the exercise of which evidence of education and training is necessary. The same applies to the First Directive.

Neither directive, therefore, covers those professions which are subject *only* to such requirements as, for instance, age or proof of good character and repute.

In the light of these considerations, it should be emphasised that the definitions contained in the directive are very important for its implementation, as well as for its subsequent administration.

Once the areas covered by the different directives are delimited and other corrections have been made, the scope of Directive 92/51/EEC will be clear and the candidate country will be able to implement it.

In theory, the competent authorities and the national coordinators for the candidate countries should be designated at the moment of accession to the EU. However, it would be most convenient if the national coordinators were nominated immediately and the competent authorities, as soon as possible.

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Part I
IMPLEMENTATION OF THE DIRECTIVE

2. The scope of the Second General Directive

The Second Directive covers all professions which are not covered by another directive. Article 2, paragraph 2 states:

> *"This Directive shall apply neither to professions which are the subject of a specific Directive establishing arrangements for the mutual recognition of diplomas by Member States, nor activities covered by a Directive listed in Annex A."*

The specific directives establishing arrangements for mutual recognition of diplomas by Member States are the sectoral directives and the directives listed in Annex A are the transitional directives, also known as provisional directives.

As the Second Directive is a supplement to the First, professions covered by the latter also fall outside the scope of the former.

Preparing lists of regulated professions and professional activities is a laborious task for the candidate countries, as it has been for EU Member States. Almost all have divided the professions and activities into categories. On the whole, the categories of professions and activities are very similar in all the candidate countries.

2.1 *Categories of regulated professions and activities in the candidate countries*[3]

Bulgaria

The Bulgarian list contains 171 professions and professional activities, which are covered, as the Bulgarian report mentions, by both the First and the Second Directive as well as by the sectoral and transitional directives. However, it is not possible to judge from the report whether current Bulgarian legislation regulates the professions in the sense meant by the directive or if it is only education and training for these professions that is regulated (See Section 2.2.3 below).

3 In this section, professions and professional activities or groups of professions and professional activities that might be covered by a transitional directive or excluded on the basis of the provisions of Article 48, paragraph 3 and 4 of the Treaty of Rome, are also identified. In this regard, it should be noted that the assessments are based only on the names of the professions and the professional activities. A definitive decision on which professions are covered must be taken by the state in question.

CATEGORIES

1. Health care
2. Architecture and construction
3. Agriculture
4. Finance and the economy
5. Culture
6. Transport
7. Industry
8. Food industry
9. Textile production
10. Clothes and haberdashery
11. Production of shoes
12. Forestry and woodwork
13. Services, which are divided into
    - Administrative services
    - Public services
    - Trade
    - Tourism

Czech Republic

The Czech Republic list contains 73 professions and professional activities, many of which are likely to be covered by the transitional directives.

CATEGORIES

1. Law, taxation and accountancy
2. Paramedical services
3. Veterinary and other activities in agriculture
4. Socio-cultural – (educational) activities
5. Technical services
6. Some professions which are practised as trades
7. Independent, self-employed persons

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Estonia

The Estonian list contains 73 professions and professional activities, which are not divided into categories.

Most of the professions are covered by the general system. Others, such as architects, veterinary surgeons, (general care) nurses, midwives and doctors (sports medicine) are covered by the sectoral directives. It is likely that the following professions and professional activities are covered by the transitional directives: brokers, stock-brokers, electricians, mining electricians, electrical technicians, gas pipe fitters, gas machine operators, insurance brokers and agents, bank tellers and clerks, bookkeepers, accountants, economists, welders and mine transport operators.

Professions in the law and taxation, police, military and customs categories may be covered by the restrictions or exceptions established by the provisions of Article 48, paragraphs 3 and 4, of the Treaty of Rome.

CATEGORIES

1. Agriculture and veterinary science
2. Education and training
3. Energy and safety at work
4. Environmental protection and engineering
5. Finance
6. Health care and social work
7. Internal affairs
8. Public administration
9. Sport
10. Transport
11. Law and taxation
12. Police
13. Military
14. Customs

Hungary

The Hungarian report indicates that there are 247 regulated professions or professional activities in the country. However, many of the professions or professional activities in the banking and finance, labour administration, industry and trade, building, transport, environmental protection, post and telecommunications and water management categories, 112 in total, are likely to fall within the scope of the transitional directives. The same is true for professions such as those related to food and beverage production in the agriculture category, and carvers and goldsmiths in the education and culture category. Professions or professional activities in the public order, defence and general administration categories, 24 in total, may be covered by the restrictions or exceptions established by the provisions of Article 48, paragraphs 3 and 4, of the Treaty of Rome.

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CATEGORIES

1. Health care
2. Banking and finance
3. Labour administration
4. Agriculture
5. Public order, defence and general administration
6. Industry and trade
7. Education and culture
8. Building, transport, environmental protection, post and telecommunications, water management

Latvia

Latvia has listed a total of 408 professions and activities. These are in separate annexes and fall into the categories described below. It is estimated that more than 200 of them are covered by the general system. The report states that

> *"The present list of regulated professions is too extensive."*

It also points out that, within the transport sector, regulation concerns only education and training activities, but that the Ministry of Transport is preparing "appropriate administrative provisions" to deal with this.

CATEGORIES

1. Professions and occupations considered to be connected to the exercise of official authority

   Among the professions listed are civil servants and candidates for the civil service. The report states:

   > *"Restrictions on access to occupations and posts in certain state services are consistent with the UN Covenant on Civil and Political Rights of 1966".*

   However, in terms of the accession process, what will be decisive in determining whether these can be restricted to nationals or not will be Article 48, paragraphs 3 and 4, of the Treaty of Rome and the opinion of the European Court. (See Section 2.3.4 below)

2. Professions with restricted access

   The professions in this group are divided into three categories on the basis of access requirements.

   In the first category, the requirements are formal evidence of financial standing and proof of good character and repute. In the third, the requirements are Latvian citizenship and residence, which do not apply to nationals from EU and EEA[1] countries. The requirements for neither of these categories bring the professions and activities concerned into the scope of Directive 92/51/EEC. (See Section 2.2.3 below)

   It is only within the second category that there are education and training requirements but many of the professions and the professional activities listed here are likely to be covered by the transitional directives

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CATEGORIES

3. Education and science

   Architects, dentists, pharmacists, veterinary surgeons and doctors are covered by sectoral directives and lawyers by Directive 89/48/EEC.

   Other professions in this sector are considered, according to the national report, to give rise to "serious problems with regard to *de facto* recognition" in cases where an applicant's education is at the level of "non-university, post-secondary education or higher education of less than four years duration." As the professions in question are supposed to be regulated in Latvia and covered by the Second Directive, the recognition procedure will be that laid down in the directive and any *de facto* recognition is out of the question. (See Section 3.1, Division of professions into levels and, especially, Section 3.2, Bridges between the levels and, in Part II, Section 5.2, The recognition procedure).

4. Crafts sector

   There is unregulated access to the professions in this sector but the titles of journeyman, craftsman and master craftsman are protected and reserved for persons who have successfully completed the required education and training. Others exercising the professions do not have the right to use these titles. The transitional directives will apply, except in the health sector.

5. Transport sector

   The sector is divided into rail transport, road transport, seafaring and aviation. (See remarks above on the regulation of professional activities in this sector)

6. Other sectors

   Included here are regulations on shipping agent and freight services and on licences for certain entrepreneurial activities. The services involved are covered by the transitional directives.

7. Professional activities regulated by assessment of conformity to established requirements

   These professions will, for the most part, be covered by transitional directives.

8. Professional activities regulated by professional associations

   These professions will, for the most part, be covered by transitional directives.

Lithuania

The number of regulated professions or professional activities covered by the directive is indicated to be 96. Professions in the energy and safety at work category, a total of 18 professions or professional activities, are likely to fall within the scope of the transitional directives. Professions in the environmental protection, engineering and internal affairs categories, a total of eight professions or professional activities, may be covered by the restrictions or exceptions established by the provisions of Article 48, paragraphs 3 and 4, of the Treaty of Rome.

CATEGORIES

1. Agriculture
2. Education and training
3. Energy and safety at work
4. Environmental protection and engineering
5. Finance
6. Health care and social work

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CATEGORIES
7. Internal affairs
8. Public administration
9. Tourism
10. Transport

Poland

The number of regulated professions or professional activities covered by the directive is indicated to be 185. Some professions in the construction and surveying, industry and finance categories, a total of 58 professions or professional activities, are likely to fall within the scope of the transitional directives. Professions in the border guards, customs service, police, municipal service and the judiciary categories, which represent a total of 14 professions or professional activities, may be covered by the restrictions or exceptions established by the provisions of Article 48, paragraphs 3 and 4, of the Treaty of Rome.

CATEGORIES
1. Construction and surveying
2. Fire fighting
3. Border guards
4. Customs service
5. Police
6. Municipal service
7. Civil service
8. Industry
9. Finance
10. Agriculture
11. Medical professions
12. Road transport
13. Air transport
14 Sea transport
15. Inland navigation
16. Railway transport
17. Welfare
18. Art and culture
19. Education
20. Quality control
21. Sport and tourism
22. The judiciary
23. Communications

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Romania

The number of regulated professions or professional activities covered by the directive is indicated to be 175. Some professions in the education, culture, sport and audio-visual services, finance and banking, tourism, commerce and related services categories and professions and professional activities in the industry and building categories are likely to fall within the scope of the transitional directives. Professions in the defence, public order and general administration categories, 44 professions or professional activities in total, may be covered by the restrictions or exceptions established by the provisions of Article 48, paragraphs 3 and 4, of the Treaty of Rome. It is not possible to judge, from the information provided on the legal framework, the extent to which the regulations mentioned also cover the exercise of professions and professional activities. (See Section 2.2.3)

CATEGORIES

1. Education, culture, sport and audio-visual services
2. Health and social assistance/health care
3. Finance and banking
4. Agriculture, forestry, fisheries, water management and environmental protection
5. Tourism, commerce and related services
6. Industry and building
7. Transport, post and telecommunications
8. Defence, public order and general administration

Slovakia

1. Tradesmen

A. Craft trades
B. Tied trades
C. Licensed trades

The section of tradesmen lists a total of 96 professions and groups of professions, which, with a few exceptions, are likely to be covered by the transitional directives.

2. Other professions or professional activities

This category contains 47 professions and professional activities from diverse categories, including:

Education (some teachers)
Construction and surveying
Fire fighting
Police
Municipal services
Civil service
Industry
Finance
Agriculture
Paramedical professions
Road transport
Air transport
Sea transport
Inland navigation
Railway transport
Welfare
Occupational health and safety

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The number of regulated professions and professional activities in this section is 47. The professions numbered 9, 10, 11, 12, 23, 29, 30, 31, 32, 38, 39, 40, 43 and 46 are likely to fall within the scope of the transitional directives as are numbers 18 and 33. Profession numbers 13 and 14 may fall within the scope of the exceptions established by the Article 48, paragraph 4, of the Treaty of Rome.

Slovenia

The number of regulated professions or professional activities covered by the directive is indicated to be 81. The professions in the industry and construction, construction of buildings, catering and hotels and commerce categories, 10 in total, are likely to fall within the scope of the transitional directives.

CATEGORIES	
1.	Agriculture
2.	Education and training
3.	Industry and construction
4.	Construction of buildings
5.	Transport and communications
6.	Rail transport
7.	Sea transport
8.	Air transport
9.	Catering and hotels
10.	Commerce
11.	Education, culture and information
12.	Health and pharmacy services
13.	Protection of people and property
14	Other professions

2.2 *The scope of the directive in relation to other directives*

2.2.1 *Sectoral directives*

There are special directives covering the professions of doctors, nurses (general care), midwives, dentists, veterinarian surgeons, pharmacists and architects. These are called the sectoral directives. The first of them was introduced in 1975. The approach adopted by the Commission in the sectoral directives was to coordinate education and training progressively by establishing minimal qualitative and quantitative criteria that would allow the automatic recognition of qualifications that satisfied those criteria. This approach proved to be slow and laborious, so the Commission turned to the horizontal approach of the general system of mutual recognition.

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2.2.2 *Transitional directives*

Transitional directives relate, in particular, to occupations and sectors in commerce, industry and small craft industries. The health sector is not included.

Transitional directives are so called because many of them were intended to be repealed by other directives on the mutual recognition of diplomas at the end of the transitional period of the Treaty of Rome, i.e., by 31 December 1969. This did not happen and they are still in force. They are, however, soon to be replaced by a new directive, which will compile them all with a few modifications. The new directive is known as the "Third General Directive"[4].

It is difficult to distinguish the area covered by the Second Directive from that covered by the transitional directives. The nomenclature used for the activities involved is NICE[5], which corresponds to the ISIC[6] Major Groups drawn up by the UN more than 40 years ago and used today only in this respect. This nomenclature will also be used in the new directive.

The transitional directives originally covered persons exercising their professions either in a self-employed or a managerial capacity. Since the Second Directive came into force in 1994, the directives have also applied to employed persons. (See Article 2, paragraph 3 and Annex B of the Directive 92/51/EEC.)

The criteria for recognition is either professional experience alone (for instance, six years experience) or professional experience combined with relevant training and education (for instance, three years training and three years experience).

An applicant satisfying these criteria shall be recognised by a host Member State without any comparison of the education and training received by the applicant and that required by the host Member State.

On the other hand, if a professional does not satisfy the criteria exactly, s/he cannot invoke the transitional directive and the host Member State is not obliged to give him/her access to the profession in question.

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4 The full title of the proposal is: "Proposal for a European Parliament and Council Directive establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by the Directives on liberalization and transitional measures and supplementing the general systems for the recognition of qualifications". The new Directive was adopted by the Parliament and the Council on 7 June 1999. It is the Directive 1999/42/EC (O J. L201/77/31-7-99). The proposal for this new directive was adopted on 7 June 1999. It was published on 31 July 1999, the day of which it entered into force. It is directive 1999/42/EC (OJ L201/77). The scope of the directive is the same as that of the transitional directives it repeals and thus the difficulty of the delimitation of the second directive remains. It must be underlined that according to the transitional directives the main criteria for recognition to access regulated professions was that of professional experience of a certain number of years. This condition resulted in automatic recognition when satisfied. This also led to automatic refusal when the criteria in question were not satisfied. By the new directive this is not possible any longer. In such cases the host Member State has to compare the knowledge and skills of the applicant certified by the qualification papers s/he holds with those required under the national rules. In case of substantial difference the host Member State must give the applicant opportunity to demonstrate that s/he has acquired the knowledge and skills which were lacking either by an aptitude test or by an adaptation period by analogy with the first and second directives (see page 25). If the knowledge and skills correspond to national rules the host Member State must give the applicant the right to pursue the profession in question, even if the duration of training is shorter than required but compensated by a period of professional experience covering the difference in duration of the training. Each Member State may nominate a coordinator to the coordinating group (see page 32). A nomination is not obligatory but is recommended. The nomination of the same coordinator as for the second directive should be considered. A designation of competent authorities is obligatory.

5 Nomenclature des Industrie établies dans les Communautés européennes (Classification of Industries Established in the European Communities).

6 (International Standard Industrial Classification of All Economic Activities. The French abbreviation is CITI = Classification internationale type de toutes les branches d'activités économiques).

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The Third Directive will amend this so that, if an applicant does not satisfy the criteria, e.g. if s/he has 3 years professional experience combined with relevant education and training of only 2 years duration, the host Member State must give the applicant the opportunity to demonstrate that s/he has acquired the knowledge and skills equivalent to those that would be acquired during a third year of education or training.

The host Member State will be no longer be entitled to reject the application as it can at present.

It is worth noting that, although the criteria for recognition in the transitional directives do not provide for the possibility of examining an applicant's knowledge and skills, the Member States which are most affected by the directives do not want them repealed.

2.2.3 *Regulated professions and regulated education and training*

The term "regulated profession" is given a special meaning in the directives of the general system. The regulation of education and training for a profession does not mean that the profession itself is regulated.

The criterion for classifying a profession as "regulated" is the possession of evidence of education and training or an attestation of competence. The possession of such evidence shall be required, either directly or indirectly, by virtue of laws, regulations or administrative provisions. A regulated profession is, according to the directive:

> *"..the regulated professional activity or range of activities which constitute this profession in a Member State."*

A regulated professional activity is defined as

> *"...a professional activity the taking up or pursuit of which, or one of its modes of pursuit, in a Member State, is subject, directly or indirectly, by virtue of laws, regulations or administrative provisions, to the possession of evidence of education and training or an attestation of competence."*

An example of modes of pursuit of a regulated activity is given in the provision as

> *"...the pursuit of an activity under a professional title, in so far as the use of such a title is reserved to the holders of evidence of education and training or an attestation of competence governed by virtue of laws, regulations or administrative provisions."*

More concretely, the provision gives an example of a mode of pursuit in the area of health as

> *"...the pursuit of a professional activity relating to health, in so far as remuneration and/or reimbursement for such an activity is subject by virtue of national social security arrangements to the possession of evidence of education and training or an attestation of competence."*

A regulated education and training is, according to the directive,

> *"... any education and training which:*
>
> *is specifically geared to the pursuit of a given profession, and*
>
> *comprises a course or courses complemented, where appropriate, by professional training or probationary or professional practice, the structure and level of which are determined by the laws, regulations or administrative provisions of that Member State or which are monitored or approved by the authority designated for that purpose;..."*

Only the Second Directive contains a definition of regulated education and training.

The distinction between a regulated profession and regulated education and training is important. In some Member States, education and training for almost every profession is regulated by laws and legal provisions, whereas only a few professions are regulated. An employer is free to decide whether s/he will engage a person who has completed the regulated education and training or not. The profession, as such, can be exercised freely.[7]

It is important for a migrant from a candidate country that does not regulate the profession in question to have evidence of a regulated education and training in his/her country of origin, as this offers the same guarantees of qualification as an authorisation. Evidence of two years full-time professional experience in the previous ten years may not, in this case, be required of the migrant[8].

2.2.4 *Professions excepted from free movement provisions in pursuance of Article 48, paragraphs 3 and 4, of the Treaty of Rome*

Many of the professions listed by the candidate country experts might, judging at least from their names, be exempted from the scope of free movement directives on the basis of Article 48, paragraphs 3 and 4, of the Treaty of Rome. Professions, such as judges and customs officers and those in the military field, which are related to the security of a state, may be, and normally are, reserved to nationals.

Article 48, paragraph 3, provides that free movement shall entail the right to seek and to take up work in another Member State, to move freely for this purpose within the territory of the Member States as well as to stay for this purpose in a Member State and remain there after having been employed there. However, this right is:

> *"..subject to limitations justified on grounds of public policy, public security or public health."*

Article 48, paragraph 4, states

> *"The provisions of this Article shall not apply to employment in the public service."*

According to the European Court of Justice, the exceptions laid down in Article 48, paragraphs 3 and 4, are to be interpreted strictly.

Concerning employment in the public service, the Court has ruled that the exceptions mentioned in the Article concern only "the admission of foreign nationals to certain activities in the public service", which implies that not all public service activities are exempted (Case 152/73 Sotgiu versus Germany).[9]

In another case, the Court[10] ruled that, for activities to be defined as connected to the exercise of official authority, they should "taken on their own, constitute a direct and specific connection with the exercise of official authority" and that the right of establishment does not apply to activities which, in a given state, "are connected, even occasionally, with the exercise of official authority".

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7 An employer may often prefer to engage people who are educated and trained for the profession, because they are better qualified but also for reasons of responsibility to third parties and for other insurance purposes, but s/he is not obliged to do so.

8 See Directive 92/51/EEC, Articles 3 b), 5 b) and 6 b). The acceptance of evidence of professional experience corresponds to an authorisation.

9 According to the Court, professions which fall outside the ambit of Article 48, paragraph 4, include: posts such as gardeners, electricians and plumbers employed by a local authority; drivers, signalmen, painters' assistants and night watchmen employed by national railways (see Case 149/79 Comm. v. Belgium); and trainee teachers (C 66/85 Lawrie-Blum), researchers (C 225/85 Comm. v. Italy), foreign-language assistants (C 33/88 Allue I), secondary school teachers (C 4/91 Bleis) and hospital nurses (C 149/79 Comm. v. Belgium II).

10 Case 2/74, Reyners versus Belgium, concerned the right of establishment laid down in Article 55, which corresponds to Article 48 for workers.

The Court also ruled that the fact that certain members of a profession exercise activities which may be reserved to nationals of the state pursuant to Article 55, cannot, in general, justify the exclusion of the entire profession from the right of establishment pursuant to Article 52. The complete exclusion of a profession is permissible only when the exercise of official authority is inseparable from the professional activity as a whole.

It is important for a migrant from a candidate country that does not regulate the profession in question to have evidence of a regulated education and training in his/her country of origin, as this offers the same guarantees of qualification as an authorisation. Evidence of two years full-time professional experience in the previous ten years may not, in this case, be required of the migrant[11].

2.3 *Final remarks on the scope of the directive*

As was said above, the scope of the Second Directive is difficult to determine because of the existence of the transitional directives.

A complete and final classification of the professions and professional activities listed in the national reports would fall outside the scope of this report. It would require an examination of the content of education and training programmes, as a final decision could not be taken on the basis of the names of the professions and professional activities alone. The name gives only an indication of how the profession should be classified. The comments made in this section, therefore, should be taken simply as pointers and suggestions for further studies to be undertaken by the responsible national authorities.

In conclusion, it can be said that the candidate countries should scrutinise the list of regulated professions and professional activities and determine:

- *whether the professions and the professional activities identified so far are regulated professions as these are defined by the general system;*
- *whether they are covered by a sectoral or a transitional directive; and*
- *whether they are exempt on the basis of the provisions of Article 48, paragraphs 3 and 4, of the Treaty of Rome.*

Once the scrutiny is completed, the scope of the general system in each candidate country will be clear and the remaining professions and professional activities can be placed at the level to which they belong or classified as being subject to Article 8 of the Second Directive, which deals with "Attestation of Competence". (See below.)

11 See Directive 92/51/EEC, Articles 3 b), 5 b) and 6 b). The acceptance of evidence of professional experience corresponds to an authorisation.

3. The levels covered by the general system directives

3.1 Division of professions into levels

Defining the scope of each of the two Directives of the general system requires a classification of the professions into levels.

The general system recognises three different educational levels. The First Directive defines and deals with only one of these, the third (highest) level. The Second Directive deals with the other two levels, the second and first (lowest) level.

The levels are delineated in terms of the evidence of the formal qualifications they require: the "diploma" of the First Directive (Article 1a), the "diploma" of the Second Directive (Article 1a) and the "certificate" of the Second Directive (Article 1 b).

The levels differ from the five levels identified and used by CEDEFOP[12].

The terms "diploma" and "certificate" refer to all documents that show that the holder has the professional qualifications required in a Member State for the taking up or pursuit of a regulated profession. A "diploma" or a "certificate" is a final product and also includes an authorisation granted in the state of origin.

The way levels are to be delineated is stipulated in the second indent of the first subparagraph of Article 1 a) of the First, and Article 1 a) and the second and third indent of the first subparagraph of Article 1 b) of the Second Directive.

In the First Directive, the second indent of the first subparagraph of Article 1 a) states that a diploma is any evidence of education or training or any set of such evidence:

> *"...which shows that the holder has successfully completed a post-secondary course of at least three years' duration, or of an equivalent duration part-time, at a university or establishment of higher education or another establishment of similar level and, where appropriate, that he has successfully completed the professional training required in addition to the post-secondary course".*

Article 1 a), second indent of the first subparagraph, of the Second Directive defines a diploma as any evidence of education or training or any set of such evidence

> *"which shows that the holder has successfully completed:*
>
> *(i) either a post-secondary course other than that referred to in the second indent of Article 1 a) of Directive 89/48/EEC, of at least one year's duration or of equivalent duration on a part-time basis, one of the conditions of entry of which is, as a general rule, the successful completion of the secondary course required to obtain entry to university or higher education, as well as the professional training which may be required in addition to that post-secondary course;*

12 CEDEFOP - European Centre for the Development of Vocational Training

(ii) or one of the education and training courses in Annex C, ..."

In the Second Directive, Article 1 b), second and third indent of the first subparagraph, defines a certificate as any evidence of education or training or any set of such evidence

"– which shows that the holder, after having followed a secondary course, has completed:

- *either a course of education or training other than courses referred to in point (a), provided at an educational or training establishment or on the job, or in combination at an educational or training establishment and on the job, and complemented, where appropriate, by the probationary or professional practice required in addition to this course,*
- *or the probationary or professional practice required in addition to this secondary course, or*

– which shows that the holder, after having followed a secondary course of a technical or vocational nature has completed, where necessary,

- *either a course of education or training as referred to in the previous indent,*
- *or the probationary or professional practice required in addition to this secondary course of a technical or vocational nature..."*[13]

What this means is that the qualification is at "diploma" level if the evidence of formal qualifications proves that the applicant has completed a post-secondary course at either a university or an establishment of higher education[14] or another establishment of similar level. Whether the diploma is classified as level three or level two depends on the duration of the course.

All other evidence of formal qualification falls into the "certificate" level (level one), unless the evidence shows that the education or training is of less than one year's duration. (See "Attestation of competence" below.)

However, as far as "certificates" are concerned, the competent authority should determine whether the regulated profession, which the "certificate" qualified a person to exercise, is the same in terms of responsibilities and activities, as in other Member States where a "diploma", in the meaning of the First Directive, is required. "Certificates" of this kind may be included in Annex C of the directive and classified as a "diploma" in the meaning of the Second Directive and so placed at level 2. (See below.)

The candidate countries need to allocate professions to one of the three levels and this allocation must be carried out on the basis of the definitions in the directive, regardless of the usual application in the countries of the terms "diploma", "certificate" and "attestation of competence" and regardless, too, of any other system of classification of levels of qualification in the candidate countries.

This allocation is also necessary for the administration of the directive once it is implemented.

13 Evidence of education and training from Member States which do not regulate the profession in question is divided into levels in the same way. (See Article 3 b, second indent, Article 5 b, second indent, and Article 6 b, second and third indents.)

14 The terms "university" and "higher education" are not defined by the directives.

3.2 *Bridges between the levels*

Sometimes, the same profession can be exercised at different levels in the Member States. This does not constitute an obstacle to migration as the Second Directive has provided for bridges between the levels. The one exception is that there is no provision for a bridge between level one and level three.

The bridges between the levels are described in the Second Directive in:

- Article 3 a and b, if a "diploma" is required and the applicant is at level three;
- Article 5, if a "diploma" is required and the applicant is at level one; and
- Article 6, if a "certificate" is required and the applicant is at level three or level two.

As there is no bridge from level one to level three and the pursuit of some professions in some Member States requires a "diploma", as defined by the First Directive, whereas the pursuit of the same profession in another Member State requires a (level one) "certificate", a provision to cover this was included in Directive 92/51/EEC. This is Annex C "List of courses having a special structure as referred to in point (ii) of the second indent of the first subparagraph of Article 1 (a)". The courses listed in Annex C are classified as "diploma" (level 2) courses so that holders of "certificates" in them can migrate and take up their professions in Member States which require a "diploma" in the meaning of the First Directive.

Annex C can be amended by a procedure laid down in Article 15 of the directive. A request to amend Annex C, i.e. to include a "certificate" course in it, must be accompanied by reasoned and appropriate information, as well as by the text of the relevant provisions of the national law. The request is examined thoroughly by the Commission.

3.3 *Attestation of competence*

Attestation of competence is any evidence of qualification resulting from education and training which is not attested by a diploma as defined by the First Directive or a diploma or a certificate, as defined by the Second Directive. An attestation of competence does not, therefore, refer to a particular level of education or qualification and it is aimed at the recognition of courses of short duration designed for the pursuit of such professions (e.g. courses for taxi or crane drivers), which can be taken without proof of prior education and training.

An applicant has to prove s/he has an "attestation of competence" or proof of qualification from another Member State for the activity s/he wants to engage in. If s/he is not able to do so, the host Member State may require him/her to fulfil the requirements of the course designed for the pursuit of the profession in question. The compensation mechanisms laid down in the directive shall not apply. This is another reason for the provisions of Article 8, as the courses in question are of a short duration.

A number professional activities included in the lists of the candidate countries are likely to fall into the category requiring an "attestation of competence".

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Conclusion

The levels of the directives are like boxes. Every regulated profession and regulated professional activity has to be put into one of these on the basis of the criteria laid down in the directive, regardless of any other system of classification used in each country and/or of the normal use at national level of the words "diploma", "certificate" and "attestation of competence".

With one exception, there is no obstacle to movement between the levels and, because there is no provision for a bridge between levels three and one, the only option is for a profession to fall into the lowest level, included in Annex C of the directive.

4. Ways of implementing the directive

4.1 *A "vertical" or a "horizontal" approach*

Current Member States have implemented the general directives in two different ways, i.e. either by amending each law, executive order, decree etc. regulating a profession (the "vertical" approach) or by adopting a single law to transpose the directive covering all the professions that fall within the scope of the directive. The latter, "horizontal", approach is by far the easier, as law making is very time-consuming. It also ensures that all current national legislation on the regulated professions and professional activities in question is amended in accordance with *the principle of lex posterior*.

The horizontal approach has been adopted, among others, by the UK, Ireland, Italy, Finland and Denmark. An example of this approach is included in the annex to this report.

The "horizontal" approach enables the legislature to attach the directive to the transposing law and simply to refer to it in the provisions of this law. The "vertical" approach, on the other hand, requires specific consideration of which directive's provisions must be implemented for each national act or order in question.

Provisions governing the compensation mechanisms at each of the three levels defined by the Directives of the general system must also be implemented.

For example, if a profession is considered to be at level one, the provisions of Articles 6 and 7 of the directive apply.

According to Article 6, access must be given to applicants who hold a "diploma", as defined by either of the two general directives, or a "certificate" for the profession in question and to applicants who are nationals of Member States that do not regulate the profession in question, but who possess evidence of education and training for this profession and have professional experience of a certain length. Level one applicants, who have no "diploma", "certificate" or any other evidence of education and training, but who have pursued the profession for a number of years must also be given access. The conditions for access laid down in Article 6 must be incorporated into the legislation regulating the profession in question.

The provisions of Article 7 govern the compensation mechanisms for level one and must be implemented. The provisions are complicated and differ according to whether applicants have a "diploma", a "certificate" or any other evidence of education and training or have pursued the profession for a number of years.

If proof of good character and repute or a statement of good health is required for the pursuit of a profession, the provisions of Article 10, which deals with the documents which a host Member State shall accept as sufficient evidence, apply and have to be implemented.

The provisions of Article 11 concern the right to use the professional title of the host Member State and the conditions for use of the academic title of the state of origin. These provisions have to be implemented, as do the provisions of Article 12 on the procedure for application and recognition.

It is obvious that, since the candidate countries have already drawn up long lists of regulated professions and professional activities, the adoption of a "vertical" approach would require a lot of resources and a great deal of time. The transformation of national legislation must comply exactly with the provisions of the directive and in no way alter them. Any amendment of the national legislation shall be notified to the Commission, which will examine the legislation to see if these requirements are met.

Conclusion

The "horizontal" approach is recommended as it saves time and resources. Using this approach makes it is possible to attach the directive to the transposing single law and to simply refer to the relevant provisions of the directive in the provisions of this new law. This avoids the risk of transposing the text of the directive's provisions wrongly.

An example of the "horizontal" approach is included in the Annex to this report.

4.2 The legislative framework of the candidate countries

In the section on the national legislative framework, the experts' reports use such terms as "law", "act", "governmental decree or order", "ministerial order", "regulation", "ordinance" and "statute". It is likely, however, that these different terms refer to the same legal processes and that the differences are, at least in part, due to differences in translation.[15] Some candidate countries, however, do have governmental decrees or orders as well as ministerial orders.In all the countries considered, responsibility for the regulation of professions appears to lie with ministries or with institutions that are under the control of a ministry. In Latvia, however, some professions are regulated by private organisations in accordance with an act by which this type of regulation has legal force.

Regulation is centralised and has not, as yet, been devolved to different local authorities. The same situation should apply to the implementation of the directive.

The reports, and the investigations of the author, suggest that any kind of by-law, whatever it is called, derives its authority from a legislative act and has legal validity.

In conclusion, it can be said that the choice of the method of implementation lies with each candidate country. However, the general system of mutual recognition could be more easily implemented in any of the candidate countries if the "horizontal" approach is used, introducing one single act for each directive and even by the method illustrated in the Annex.

15 In some dictionaries, for example, the word decree has the same meaning as executive order. In others, it has the same meaning as judgement while yet other dictionaries give both meanings.

4.3 *Current regulations on the access of foreigners and bilateral agreements*

All the reports provide information on the current regulation of access of foreigners to exercise regulated professions. For EU nationals, however, the provisions of the Treaty, of Council Regulation 68/1612/EEC and of the Second Directive, as far as professions covered by the directive are concerned, apply. The regulations on the access of foreigners to professions will, therefore, no longer apply to EU and EEA nationals, though they may continue to be applied to nationals from third countries.

Current bilateral agreements with other candidate countries and with Member States must be reviewed to see if they comply with the prohibition of discrimination on grounds of nationality as laid down in Article 7 of the Treaty of Rome. If there is no problem in that regard, they can stand.

Part II
ADMINISTRATION OF THE DIRECTIVE

5. The role of the competent authorities

5.1 *Their nomination*

For a competent authority, the administration of the Second (and the First) Directive is mainly about handling incoming applications. Some candidate countries are already considering whether existing bodies should be designated as competent authorities or whether a single, special body should be established for the purpose.

It is up to the individual country to decide this issue. However, it would be most reasonable to leave the assessment and recognition of applications to the authorities who are already responsible for the regulated professions and who are entitled to grant permission, licences and authorisations to pursue the professions in question. Once recognised, the applicants would be subject to the same authority. It is also recommended, however, that the competent authorities should be designated as soon as possible so that they can participate in the implementation procedure from an early stage.

As the candidate countries are not expecting to have many applicants and as the recognition procedure in the general system is simple, the setting up of a special institution for the purpose of processing applications would soon be challenged as a counter productive solution.

5.2 *The recognition procedure*

The main challenge all over the EU has proved to be the recognition procedure of the general system. The experts' reports indicate that this procedure is also of concern to the candidate countries.

The directives of the general system depend on *mutual trust* in each other's education and training systems.

Furthermore, the directives of the general system are based on the idea that a given professional can pursue and exercise his/her profession all over the Union.

Recognition is, however, not automatic. The directives of the general system do not draw up a list of minimum requirements to be fulfilled, as do the sectoral directives. *Neither* do they require the Member States to introduce *any* harmonisation of education and training. A host Member State may, under certain conditions, require an applicant to compensate for a perceived lack of qualifications.

5.3 *Compensation mechanisms*

In order to facilitate the recognition procedure, compensation measures may be required of an applicant in two cases only:

- if the duration of the applicant's education and training is at least one year shorter than that required in the host Member State; or
- if there are substantial differences between the education and training of the host Member State and that possessed by the applicant.

In the first case, "evidence of professional experience" may be required. In the second, the host state may require an "adaptation period" or an "aptitude test".

"Evidence of professional experience", "an adaptation period" and "aptitude tests" are called compensation mechanisms.

The mechanisms may not be applied cumulatively and the host state is not obliged to require them. In general, the applicant shall have the right to choose between an "adaptation period" and an "aptitude test" if a host Member State uses both.

"Evidence of professional experience" applies only to the two diploma levels and not to the lower level of the Second Directive. In fact, this mechanism is rarely used.

Articles 1 i) and j) of the Second Directive and 1 f) and g) of the First Directive define the aptitude test and the adaptation period. The definitions in the two directives are identical.

5.4 *Professional recognition*

The recognition procedure is called professional recognition and a reference to what this means is *implied* in the definition of the aptitude test in Article 1 j) of Directive 92/51/EEC (Article 1 g) of Directive 89/48/EEC).

Article 1 j) states that "in order to permit the test to be carried out, the competent authorities shall draw up a list of subjects which, on the basis of a comparison of the education and training required in the Member State and that received by the applicant, are not covered by the diploma or other evidence of formal qualifications possessed by the applicant."

Furthermore, the test "must take account of the fact that the applicant is a professional" and "shall cover subjects to be selected from those on the (above mentioned) list, knowledge of which is essential in order to be able to exercise the profession in the host Member State."

This means that professional recognition is very different from the procedure for academic recognition in that it focuses only on differences which are essential for exercising a profession in the host Member State.

An assessment must be neither an academic recognition nor a recognition of equivalence.

For instance, certain conditions may exist in one state that may require skills which are not necessary elsewhere. In Iceland, for example, the education and training programmes for the building sector make special provision for the fact that Iceland is a volcanic island and has particular construction needs. Within the scope of the general system, the reasons for introducing such special conditions may be considered "substantial", (the term used in the provisions of Article 4 b) of both directives and of Articles 5 and 7 of the Second Directive). This is not the case in the transitional directive which covers the building sector. Iceland asked to be excepted from implementing that directive, but the request was refused.

There are times when a competent authority seems to consider almost everything selected for inclusion in an education and training programme of a Member State to be essential and this happens all over the EU. We must bear in mind, however, that a) many of the subjects selected for a given profession will frequently be found in training programmes for the same profession in other Member States, and b) although the education and training programmes in other Member States are not identical to our own, similar essential tasks are still carried out.

To take just one example, the profession of a singer is a regulated profession in some of the candidate countries. This could theoretically mean that famous singer like Pavarotti could be asked to compensate for the lack of some educational or training requirement before he could take up permanent employment at a local opera house. However, it is evident that few applicants for professional recognition would be as famous as Pavarotti. This example illustrates why in assessing applicants' qualifications, as provided for in the definition of the aptitude test, it is important to bear in mind that an applicant who is entitled to invoke the system is a professional and not a student, an apprentice or anything of that kind. We should also remember that the directive is based on mutual trust.

In one of the leading cases (C 340/89 Vlassopoulou), the Court ruled that the fact that an applicant did not have the specific diploma required for taking up a profession in the host Member State was not a sufficient basis for rejecting a request for admission to that profession (Rechtsanwalt/advocate). The national authorities have to take into consideration diplomas acquired in another Member State for the exercise of the same profession. If a comparison between the applicant's knowledge and qualifications and the diploma of the host Member State shows that there is an *overall* correspondence between the two (*not* that they are identical), the host Member State is bound to recognise the applicant. If the correspondence is only *partial*, the host Member State is not entitled to refuse the application, but may require the applicant to prove that s/he has acquired the missing qualifications, either by supplementary studies or by professional experience in the state of origin or in the host Member State. The Court also ruled, that it is up to the national authorities of the host Member State to assess whether the knowledge and qualifications obtained in that State are sufficient.

A substantial difference between the education and training of an applicant and that required by the host Member State is not a basis for saying the profession the applicant is seeking to exercise is not the same as that which s/he is authorised to exercise or has exercised in the Member State of origin. However, the host Member State may require the applicant to compensate for the difference. The difference could be regarded as substantial if, for example, one or more of the regulated activities that are included in the profession in the host Member State are not included in the applicant's state of origin or provenance. (See e. g. Second Directive, Article 4 b), 2nd and 3rd indent.)

In conclusion, it has to be stressed, that, in evaluating applications, the competent authorities should bear in mind that the central ideas of the general system are: a) that the professional activity which the applicant is entitled to exercise in one Member State is the same as s/he is seeking to exercise in the host Member State; b) An assessment of the applicants' qualifications must be neither in terms of an academic recognition nor a

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recognition of equivalence, but a professional recognition in the sense of focusing only on differences which are essential for exercising a profession in the host Member State . This idea is obviously justified more often than not by the reality.

5.5 Application of the directive

The fact that the directive applies only to nationals of EU and EEA States means that a national from a third country cannot invoke the general system, even though s/he has been awarded a diploma, certificate or other qualification papers in an educational institution of a Member State, and/or was born, brought up and lives in that Member State. The host Member State may refuse recognition on grounds of nationality.

5.6 Nationality and residence requirements

Requirements of nationality will no longer apply to nationals from other EU and EEA States, apart from the exceptions laid down in Article 48, paragraphs 3 and 4, of the Treaty of Rome. In future, they can be applied only to nationals from third countries. The same applies to residence requirements in the host Member State.

5.7 Linguistic requirements

A competent authority must *not* take into account the linguistic ability of an applicant. In general, it is left to employers to decide whether a job seeker's linguistic ability is sufficient for the exercise of the profession.

A linguistic test must not be required by the competent authority, but the aptitude test may be given in the local language.

The need for linguistic ability varies and, generally speaking, applicants know what is needed for the pursuance of their own professions. With regard to the health sector, for example, the argument is often used that a doctor or a dentist needs to be able to speak to his/her patients. The reality, however, is that, although desirable, this is not essential. It is better to have a doctor or a dentist who is not able to speak the client's language than to have no doctor or no dentist at all. People have other ways of finding out what causes trouble or pain to the client and this has been proved often.

5.8 Transparency

Transparency, in the sense of the extent to which the differences and relationships between the different systems are clear, is also of importance within the general system.

However, the recognition procedure is concerned only with substantial differences in the content or duration of education and transparency is less important in this area than in others. Furthermore, there are only a few regulated professions, compared to the number of free professions.

For employers of regulated professionals, transparency is of no importance as they can employ only people who have already been recognised and granted permission to practice the profession.

Knowledge of the qualifications required for regulated professions in other Member States is relatively easy to obtain as the professional associations of many regulated professions have cross-border relations or even European "umbrella" associations, where they meet and exchange information on, among other things, education and training and the requirements for the pursuit of the professions in the Member States. On the other hand, professional associations have relations with the competent authorities responsible for the profession so the latter get information from the associations and often know exactly how professionals from other Member States are educated and what they are able do.

There are also transnational relations between the competent authorities of the different Member States, for instance in the health and marine sectors.

As a result of all the above, the recognition element of a competent authority's task is often completed rapidly, even in the case of applicants from more distant Member States.

It should be noticed anyway, that most people, however, tend to migrate to neighbouring states. This means that the competent authority sees the same degrees, diplomas and certificates repeatedly. In such cases the attention of the competent authority of the host Member State is focused mainly on the individual circumstances, as particular individual circumstances may convince the host Member State not to invoke a compensation mechanism.

Finally, the competent authority can have recourse to the national coordinator who, in turn, can contact his/her counterpart in the applicant's country of origin.

Conclusion

Relations between competent authorities and professional associations should be developed as many professional associations have cross-border relations or even European "umbrella" associations, where information on education and training in the Member States is exchanged.

5.9 Translations of diplomas, certificates and other qualifications

A competent authority must, of course, be able to read the documents submitted by applicants. The legislation of some candidate countries requires certified translations into the national language. This is also the case for some Member States. Others are more liberal on this question and certified translations are not required, either by law or administrative practice.

Legal requirements of certified translations ought to be repealed. Translations are expensive, and certified translations are even more so. The costs involved almost constitute an obstacle to free movement. This issue has been discussed several times in the group of national coordinators with the European Commission.

Whether translations are necessary each time a competent authority receives an application to take up a regulated profession is another point open to question.

Applications may come from nationals of a Member State from which the competent authority has already had applications. It should, therefore, already have a translation of the relevant document.

Another point is that a translation is not necessary if someone in the competent authority is able to read the language in which the documents are presented. Nowadays, many people can read foreign languages. Very often, the foreign language in question is English, but it may also be true of languages related to one's own, such as is the case with Norwegian, Swedish and Danish.

Knowledge of foreign languages is increasing and national authorities get together more frequently on a transnational basis. In addition, as mentioned above, the authorities are often familiar with the content of the education and training programmes of other Member States, so the automatic requirement of translations ought to be abolished.

Conclusion

It is recommended that legal requirements of certified translations are repealed, at least as far as regulated professions are concerned. They are rendered unnecessary by frequent transnational communication between competent authorities and between professional associations as well as by increasing knowledge of foreign languages or, at least, of English. There tends to be a plurality of applicants from nearby countries, so that the same "diplomas" and "certificates" are presented again and again. Certified translations ought to be required only in cases where the formal evidence of education and training is not available in a language understood by anybody in the competent authority.

5.10 The extent of migration caused by the Second Directive

The candidate countries, in general, should not expect to receive many applications. First of all, the languages of these countries, like the languages of many Member States, are not in widespread use like English, French or German. They are not, therefore, attractive to learn. All the statistics from the years since the general system came into force prove or, at least, indicate this. The UK receives the greatest number of applicants and this is generally considered to be due, among other things, to the applicants' interest in learning English or in improving their knowledge of that language.

Before the First and Second Directives were adopted it was generally expected that there would be a lot of internal migration within the Union and the wider EEA area. Similar expectations exist among the candidate countries.

However, experience to date indicates that the number of migrants who have profited from the two general Directives is rather limited[16].

5.11 Reasons for migration

The state of employment in a given Member State is an important factor in the decision to migrate. It is up to applicants to find work as soon as they are recognised as qualified to pursue a regulated profession. The competent authority shall not, and must not, take into consideration the state of employment in the Member State at the time of the application.

16 In the period 1995-1997, the number of migrants covered by the Second Directive was 1,457. The number of migrants covered by the First Directive was 6,050.

The average standard of living and income in a Member State can also be crucial but, as most migrants are rather young people, these factors are not decisive as long as the migration is not expected to be permanent.

As already mentioned, applicants are most likely to come from nearby states. In Denmark, for example, applicants are mostly younger persons. Their reasons for moving are, most often, related to personal relations and most of them come from Germany, Holland, the UK and Sweden.

6. The role of the national coordinator

Each Member State is required to designate a person responsible for coordinating the activities of the competent authorities and to inform the other Member States and the European Commission to that effect. (See Article 13, paragraph 2, of the directive.)

The coordinator's role shall be to ensure uniform application of the directive to all the professions concerned.

Every two years, the Member States are required to communicate to the Commission a report on the application of the directive. Drawing up this report is one of the tasks of the coordinator. To do this, s/he must collect information on decisions taken by the competent authorities.

A coordinator must also be ready to answer questions on the provisions of the directive. S/he needs, therefore, to have a thorough knowledge of the directive, its application in other Member States and the views of the Commission on the issues involved.

The national coordinators hold regular meetings in Brussels. These are chaired by a representative of the Commission and their purpose is to facilitate the implementation of the directive and to collect information useful for its application in the Member States. This group is established pursuant to Article 13, paragraph 2.

The directive is considered to be complex by all Member States. National coordinators have to know it very well and, unlike the competent authorities, have to work with it daily. For these reasons, candidate countries should designate coordinators now so that these can be involved in and responsible for implementation from the very beginning. In the Member States, the coordinator is the person to whom one can apply for advice and for solutions to problems arising from the directive.

As the text of the two directives (definitions, compensation mechanisms etc) are identical, the possibility of having just one coordinator responsible for both, which is the case in some Member States, should be considered. The UK receives many immigrants and has a coordinator for each directive, but, for smaller countries, which receive few applications, one coordinator should suffice.

In some Member States, the coordinator is from the ministry which deals with matters arising from free movement. In others, s/he is from the Ministry of Education.

7. Conclusions

- The aim of the Directives on the mutual recognition of diplomas, certificates and other evidence of qualifications is to remove the obstacles to the free movement of persons -which is one of the pillars of the Union-resulting from the regulation of a profession in a Member State, either by the requirement of certain qualifications or by the restriction of the right to use the professional title by people holding the requisite national degrees, diplomas or certificates.
- The core precondition of the general system of mutual recognition is that the professional activity which an applicant is entitled to exercise in one Member State is identical to that for which he seeks recognition in another Member State.
- The underlying principle is that of mutual trust and the directives of the general system, therefore, require no harmonisation of national education and training programmes.
- In compliance with this basic idea, the general system introduces a recognition procedure. This is different from the academic procedure, which involves a detailed examination of the content, structure and level of the diploma, certificate or other evidence of formal qualifications presented.
- The term "regulated profession" is given a special meaning in the directives of the general system.
- The regulation of education and training for a profession does not mean that the profession itself is regulated.
- The criterion for classifying a profession as "regulated" is that the possession of evidence of education and training or an attestation of competence is a prerequisite for the taking up or pursuit of the professional activity involved. The possession of such evidence shall be required, either directly or indirectly, by virtue of laws, regulations or administrative provisions.
- The distinction between a regulated profession and regulated education and training is important. In some Member States, education and training for almost every profession is regulated by laws and legal provisions, whereas only a few professions are regulated. However, an employer is free to decide whether s/he will engage a person who has completed the regulated education and training or not. The profession, as such, can be exercised freely.
- The candidate countries should scrutinise the list of regulated professions and professional activities and determine:
  - whether the professions and the professional activities identified so far are regulated professions as these are defined by the general system;
  - whether they are covered by a sectoral or a transitional directive; and
  - whether they are exempt on the basis of the provisions of Article 48, paragraphs 3 and 4, of the Treaty of Rome.
- Once the scrutiny is completed, the scope of the general system in each candidate country will be clear and the related professions and professional activities can be placed at the level to which they belong or classified as being subject to Article 8 of the Second Directive, which deals with "Attestation of Competence".

- The levels of the directives are like boxes. Every regulated profession and regulated professional activity has to be categorised into one of these on the basis of the criteria laid down in the directive, regardless of any other system of classification used in each country and/or of the normal use at national level of the words "diploma", "certificate" and "attestation of competence".

- With one exception, there is no obstacle to movement between the levels and, because there is no provision for a bridge between levels three and one, the only option is for a profession to fall into the lowest level, included in Annex C of the directive.

- As regards the implementation of the Directives, the choice of the method of implementation lies with each candidate country. However, the general system of mutual recognition could be more easily implemented in any of the candidate countries by using the "horizontal" approach, introducing one single act for each directive. The "horizontal" approach is recommended as it saves time and resources. Using this approach makes it is possible to attach the directive to the transposing single law and to simply refer to the relevant provisions of the directive in the provisions of this new law. This avoids the risk of transposing the text of the directive's provisions wrongly.

- In evaluating future applications for recognition, the competent authorities of the candidate countries should bear in mind that the central ideas of the general system are that: a) the professional activity which the applicant is entitled to exercise in one Member State is the same as s/he is seeking to exercise in the host Member State; b) an assessment of the applicants' qualifications must be neither in terms of an academic recognition nor a recognition of equivalence, but a professional recognition in the sense of focusing only on differences which are **essential** for exercising a profession in the host Member State . This idea is obviously justified most often by reality.

- Relations between competent authorities and professional associations should be developed as many professional associations have cross-border relations or even European "umbrella" associations, where information on education and training in the Member States is exchanged.

- It is recommended that legal requirements of certified translations are repealed, at least as far as regulated professions are concerned. They are rendered unnecessary by frequent transnational communication between competent authorities and between professional associations as well as by increasing knowledge of foreign languages or, at least, of English. There tends to be a plurality of applicants from nearby countries, so that the same "diplomas" and "certificates" are presented again and again. Certified translations ought to be required only in cases where the formal evidence of education and training is not available in a language understood by anybody in the competent authority.

- The candidate countries are advised to designate a national coordinator (preferably one coordinator for both Directives) at a very early stage so that he/she can be involved in and responsible for implementation from the very beginning As is the case in the Member States, the coordinator's role will be to ensure uniform application of the directive to all the professions concerned. The coordinator must collect information on decisions taken by the competent authorities and be ready to answer questions on the provisions of the directive. S/he needs, therefore, to have a thorough knowledge of the directive, its application in other States and the views of the Commission on the issues involved. The coordinator is the person to whom one can apply for advice and for solutions to problems arising from the directive.

8. Recommendations on future activities to which the European Training Foundation could usefully contribute

8.1 *Clarification of the issues involved in the Second Directive*

The candidate countries, with the support of the European Training Foundation, are well advanced in drawing up the lists of the professions and professional activities which are regulated in their countries. It remains for each country to delimit the scope of the Second Directive and to determine precisely what its effects and implications will be. When this is done, the country will be ready to implement the directive. Harmonisation of national education and training programmes is not required.

Delimiting the scope of the directive (See Section 2.3) requires a scrutiny of existing professions and professional tasks. This task should not be underestimated.

There are two ways of implementing the directive and it is up to the candidate country to decide which one it will use. Three candidate countries, Estonia, Slovenia and Poland, have already opted for the "horizontal" approach.

Although the basic idea of the Second Directive, i.e. that the professional activity which an applicant is entitled to exercise in one Member State is the same as that for which s/he seeks recognition in another, is a simple one, the directive itself is complex. This complexity causes difficulties everywhere.

The author's remarks on the main challenges the directive poses can be viewed as a response to chapters 11 and 12 of the national case studies. These remarks do not provide answers to all the questions which people involved in the work of implementation are likely to ask. The experience acquired through the participation in debates and meetings organised in the candidate countries has helped to envisage the type of many of these questions.

The Foundation could continue to support the organisation of seminars in the candidate countries to promote an understanding of the directive. These seminars should be targeted towards those who are or will be involved in the implementation of the Directives.

Recent experience indicates that this kind of seminar can be effective. The participants, though few in number, were well chosen.

Smaller groups make it easier for participants to ask questions and many questions were, indeed, asked.

8.2 *Using the information in the case studies to facilitate free movement of persons*

There is, however, another area where the European Training Foundation could make a useful contribution to the free movement of persons. This would involve translation, transparency and professional recognition.

While examining the national case studies, the author of the present report has come to the conclusion that the information on professions and professional activities, which is in English, could be made available on the Internet and supplemented by additional information (also in English) on core curricula and essential requirements for the exercise of these professions in each state. The information could be on a homepage set up by each competent authority, so that potential migrants could compare the requirements with their own formal education and training.

Including information on core subject requirements in English should not be expensive. It could even be cost-free, as the competent authorities are likely to know the English terms used to describe subjects and curricula.

Potential migrants would be able to see what, if anything, they lack, in terms of skills and knowledge and, before applying for recognition, could make sure that they had acquired evidence of skills and knowledge obtained after the completion of their formal education and training.

The availability of this information would also enable applicants to present their documents in English, without incurring any costs, provided that the authorities of the host Member State were allowed to accept non-certified translations. (See conclusion in Section 5.9). In any case, a competent authority could easily check the web site of its counterpart in the applicant's state of origin for information on education and training.

It is to be expected that competent authorities in other countries would also be interested in the homepage and for more purposes than that of facilitating the migration of professionals. There are grounds to believe that competent authorities in countries which do not regulate the profession in question would soon set up web sites of their own, in English including the same type of information.

This would be a **first step**.

A profession is rarely regulated in all Member States. This means that migrants to a state that regulates the profession are subject to the recognition procedure of the general system, whereas migrants from this state to a state where the profession is not regulated and where, therefore, there are no rules on professional recognition, might be subject to an academic recognition procedure.

If web sites are set up and used extensively, **a next step** might be that the "professional recognition" procedure of the general system is taken up and applied also by states which do not regulate the profession in question.

If the profession can be freely exercised, there is no legal requirement to use a recognition procedure. At the moment, the academic procedure is used voluntarily by authorities or institutes when an assessment is requested but this is a practice which can be changed by an administrative decision.

It goes without saying that the setting up of homepages, as described above, could be applied to all professions as could the principles underlying the recognition procedure of the general system.

In the author's opinion, the information provided in the case studies could be a starting point and the Foundation could do much to influence the progress of this kind of development.

ANNEX
A description of the mode of implementation of the general system for mutual recognition of qualification papers in Denmark with a special view to the 2nd Directive

Introduction

The 1991 single act in Denmark covers not only the first directive, but also future directives within the general system for mutual recognition of qualification papers, enabling the authorities to lay down rules with a view to compliance for each directive within this field.

The English version of the Danish Act is attached to this description. The Act is annotated by the author. Also attached to the description is a private translation of the Danish Executive Order implementing the 2nd Directive into the Danish legislation and the annexes of the Executive Order: Annex 1 which is the directive and Annex 2 which is a list of regulated professions and professional activities in Denmark covered by the directive, as well as a list of the competent authorities.

1. The Danish Act

Article 1(1) of the Danish act provides that it shall apply to regulated professions covered by the EU directives of the general system of mutual recognition.

Article 2 of the act provides that nationals of the EU who fulfil the conditions of the directives in article 1, shall be entitled to take up and pursue a regulated profession in Denmark in a self-employed or employed capacity. Furthermore, article 3 provides that the authority responsible for the regulated profession in question shall examine whether the conditions for taking up the profession are fulfilled.

Article 4(1) of the act provides that a certain authority within the Ministry of Industry and Commerce, the Danish Commerce and Companies Agency, will co-ordinate the implementation and administration of the directives. A head of Division of the Agency has been designated as the national co-ordinator for Denmark.

Article 5(1) of the act empowers the Danish Commerce and Companies Agency, to lay down rules with a view to compliance for each directive within the general system for mutual recognition of qualification papers. Hereafter the Agency has issued an Executive Order for each of the two existing directives.

Article 7 of the act provides that the Danish Commerce and Companies Agency and the competent authorities shall be entitled to demand information from any applicant that is necessary to make a decision on an application for access to professional activities in Denmark.

2. *The provisions of the Executive Order implementing the 2nd Directive*

The Executive Order is established in pursuance of the Act and therefore has legal status.

The provisions of the Executive Order repeat some of the provisions of the act and refer to those of the 2nd Directive, a copy of which is attached to the Executive Order as Annex 1, article 1 (2). By referring to the directive rather than incorporating the text in the provisions of the Order it is not mentioned that the text of the directive is expressed incorrectly.

Being a part of the Executive Order the provisions of the directive apply in Denmark and a selection of the provisions of the directive has not been necessary, which would have been the case had the other method of implementation been applied.

In Annex 2, the regulated professions and professional activities covered by the directive are listed as well as the competent authorities for the professions, see article 2(2).

Article 3(1) of the Order provides that all applications are to be sent to the Danish Commerce and Companies Agency, the address of which is indicated. Applications shall be accompanied by a fee of DKK 500, see article 3(2).

As all Danish legislation is available to read at every Public Library in the country, as well as in Danish Embassies in all Member States, it is easy to find the necessary information about access to the Danish regulated professions covered by the general system.

Article 4(1) entitles the competent authorities to examine applications and decide on cases where compensation is required in accordance with the relevant provisions of the directive.

Articles 4(2) & (3) provide the means of proof which are to be accepted, and give the deadline for making a decision and communicating it to the applicant after presentation of all documents. Both provisions refer to the relevant articles of the directive.

All decisions taken by the competent authorities are to be notified to the Danish Commerce and Companies Agency, see article 4(4).

According to the provisions of article 4(4) and article 3(1) the co-ordinator currently overviews all applications and administers directives and is able to collect useful information for the group of co-ordinators that meets regularly in Brussels.

Initially, the work involved in the implementation of the two directives in Denmark was the collection of information on professions and professional activities covered by the directives. Once completed the Executive Orders could be written and issued. Certain Member States, having used the "vertical" method of implementation, did not complete the implementation until years after the time limit laid down in the directives had passed. In particular, the detailed rules for compensation mechanisms are difficult to implement.

Nº 291 8. May 1991

Act concerning access to pursue certain professions in Denmark for nationals of the European Communities and the Nordic countries

WE MARGRETHE THE SECOND, by the Grace of God Queen of Denmark, hereby Make known:
The Folketing has passed and We have granted Our Royal Assent to the following Act:

1. (1) This Act shall apply to regulated professions covered by the Directives of the European Communities on the introduction of general systems for mutual recognition of higher-education[17] diplomas awarded on the completion of professional education and training.

(2) This Act shall equally apply to regulated professions covered by agreements made by the Governments of the Nordic countries for the mutual recognition of higher-education diplomas awarded on the completion of professional education and training.[18]

2. Nationals of the European Communities who fulfil the conditions of the directives comprised by S. 1 (1) as well as nationals of the Nordic countries who fulfil the conditions of the agreements comprised by S. 1(2) shall be entitled to take up and pursue a regulated profession in this country in a self-employed or employed capacity on the same terms as apply to Danish nationals.

3. The authority that administers the regulated professions in question (the competent authority) shall examine whether the conditions referred to in S. 2 for taking up the profession are fulfilled.

4. (1) The Danish Commerce and Companies Agency shall coordinate the implementation and administration of the directives comprised by S. 1.

(2) The decisions made by The Danish Commerce and Companies Agency as the coordinating authority cannot be appealed to any other administrative authority.

5. (1) The Danish Commerce and Companies Agency shall lay down specific rules with a view to compliance with the directive and agreements comprised by S. 1.

(2) The Danish Commerce and Companies Agency is entitled to lay down rules for fees payable for application for access to take up and pursue a profession in this country.

6. Any applicant can be charged with expenses defrayed for the implementation of an aptitude test or supplementary education and training. The amount of the charge shall not exceed the amounts collected in connection with the implementation of education and examination etc. in the field in question. The charge shall be fixed and collected by the authority being responsible for the education and examination etc.

7. The Danish Commerce and Companies Agency and the competent authority shall be entitled to demand from any applicant the information that is necessary in order to make a decision on an application for access to pursue professional activities in this country.

8. This Act shall come in force on the day following its notification in the Danish Legal Gazette.

9. S. 1 (1) shall not apply to the Faroe Islands and Greenland, but may by a Royal Order be put into force for these regions as well.

Done at Christiansborg Castle this 8th May 1991

Under our Royal Hand and Seal

MARGRETHE R.
/ Anne Birgitte Lundholt

17 the translation is the official one; however, the Danish text does not have the corresponding word for "highereducation" but only the term for any kind of formal evidence of education and training.

18 the agreements never went into force as Sweden and Finland became members of EU and Norway and Iceland joined the EEA agreement and so the directive apply to nationals from all Nordic countries.

BEST COPY AVAILABLE

Nº 52 19. January 1995

Executive Order on mutual recognition of professional training and education[19]

A private translation by Winkler Kromann, Annasvej 10, DK 2900 Hellerup

In pursuance of S. 4(1), and S. 5 of Act No 291 of 8 May 1991 concerning access to pursue certain professions in Denmark for nationals of the European Communities and the Nordic countries it is hereby established:

1. (1) Any national of an EU-country and of the EFTA countries comprised by the EEA Agreement, may pursue and take up a regulated profession in this country, see S. 2 (2), in a self-employed or employed capacity on the same terms as apply to Danish nationals provided that the person in question fulfils the conditions in Article 3, Article 5 (1), Article 6, 8 or 9 of Directive 92/51/EEC, with the exception referred to in S. 4 (1).

(2) In other respects, the provisions of the directive including later amendments and corrections attached as Annex 1 to this Executive Order, shall apply.

2. (1) The Danish Commerce and Companies Agency shall be responsible for the coordinating functions referred to in Article 13 (2) of the Directive.

(2) A list of the regulated professions as well as the authorities that administer these professions (the competent authorities) is attached as Annex 2 to this Executive Order.

3. (1) Applications for access to take up and pursue a profession according to S. 1 shall, with the necessary documentation attached, be sent to: The Danish Commerce and Companies Agency, Kampmannsgade 1, DK-1780 Copenhagen V.

(2) The application shall be accompanied by a fee of DKK 500. In case this fee is not paid within a limit time determined by The Danish Commerce and Companies Agency, the Agency shall be entitled to reject the application.

4. (1) The competent authority shall examine whether the conditions for taking up professional activities have been fulfilled and may make the pursuit of a profession subject to supplementary requirements according to Article 4, Article 5(2) or Article 7 of the Directive.

(2) The competent authority shall accept as means of proof that the conditions for pursuing a profession in this country are satisfied the documents, which the applicant shall submit in support of his application according to Article 10 and Article 12(1) of the Directive.

(3) The outcome of the procedure pursuant to paragraph 1 shall be communicated the applicant in a reasoned decision as soon as possible and not later than 4 months after presentation of all documents relating to the person concerned.

(4) The Danish Commerce and Companies

Agency shall be notified of decisions taken pursuant to paragraph 1.

5. Of access to use professional titles apply the provisions of Article 11 of the directive.

6. This Executive Order shall come into force on 27. January 1995.

The Danish Commerce and Companies Agency
19th January 1995

Ole Blöndal / Niels Anker Ring

19 The executive Order implements Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC, O.J. 1992 no. L 209/25, Commission Directive 94/38/EEC, O.J. no. L 1994 217/8, parts of EEA Agreement, O.J. 1994 no. L 1/3, Decision done by the EEA Joint Committee no.7, O.J. 1994 no. L 160/1, and correction to Council Directive 92/51/EEC (not yet published in O.J.).

Annex 1

Council Directive 92/51/EEC of 18 June 1992 on a second general system for the recognition of professional education and training to supplement Directive 89/48/EEC

Official Journal L 209 , 24/07/1992 p. 0025 - 0045

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, particular Articles 49, 57 (1) and 66 thereof,

Having regard to the proposal from the Commission (1),

In cooperation with the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

(1) Whereas, pursuant to Article 8a of the Treaty, the internal market shall comprise an area without internal frontiers and whereas, pursuant to Article 3 (c) of the Treaty, the abolition, as between Member States, of obstacles to freedom of movement for persons and services constitutes one of the objectives of the Community; whereas, for nationals of the Member States, this means in particular the possibility of pursuing a profession, whether in a self-employed or employed capacity, in a Member State other than that in which they acquired their professional qualifications;

(2) Whereas, for those professions for the pursuit of which the Community has not laid down the necessary minimum level of qualification, Member States reserve the option of fixing such a level with a view to guaranteeing the quality of services provided in their territory; whereas, however, they may not, without disregarding their obligations laid down in Articles 5, 48, 52 and 59 of the Treaty, require a national of a Member State to obtain those qualifications which in general they determine only by reference to those issued under their own national education and training systems, where the person concerned has already acquired all or part of those qualifications in another Member State; whereas, as a result, any host Member State in which a profession is regulated is required to take account of qualifications acquired in another Member State and to determine whether those qualifications correspond to the qualifications which the Member State concerned requires;

(3) Whereas Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration (4) facilitates compliance with such obligations; whereas, however, it is limited to higher education;

(4) Whereas, in order to facilitate the pursuit of all those professional activities which in a host Member State are dependent on the completion of a certain level of education and training, a second general system should be introduced to complement the first;

(5) Whereas the complementary general system must be based on the same principles and contain mutatis mutandis the same rules as the initial general system;

(6) Whereas this Directive is not applicable to those regulated professions which are covered by specific Directives principally concerned with introducing mutual recognition of training courses completed before entry into professional life;

(7) Whereas neither is it applicable, furthermore, to those activities covered by specific Directives principally intended to introduce recognition of technical skills based on experience acquired in another Member State; whereas certain of those Directives apply solely to the pursuit of activities in a self-employed capacity; whereas, in order to ensure that the pursuit of such activities as an employed person does not fall within the scope of this Directive, whereby the pursuit of the same activity would be subject to different legal recognition arrangements depending on whether it was pursued in a self-employed capacity or as an employed person, those Directives should be made applicable to persons pursuing the activities in question as employed persons;

(8) Whereas the complementary general system is entirely without prejudice to the application of Article 48 (4) and Article 55 of the Treaty;

(9) Whereas this complementary system must cover the levels of education and training not covered by the initial general system, namely that corresponding to other post-secondary education and training courses and other equivalent education and training, and that corresponding to long or short secondary courses, possibly complemented by professional training or experience;

(10) Whereas, where in most Member States pursuit of a given regulated profession is subject to either very short training or the possession of certain personal attributes or merely general knowledge, the normal mechanisms for recognition under this Directive may be excessively cumbersome; whereas in such cases there should be provision for simplified mechanisms;

(11) Whereas account should also be taken of the professional training system in the United Kingdom whereby standards for levels of performance for all professional activities are established via the 'National Framework of Vocational Qualifications';

(12) Whereas in some Member States there are only relatively few regulated professions; whereas, however, training for professions which are not regulated may be specifically geared to the pursuit of the profession, with the structure and level of training being monitored or approved by the competent authorities of the Member State concerned; whereas this provides guarantees equivalent to those provided in connection with a regulated profession;

(13) Whereas the competent authorities of the host Member State should be allowed to determine, in accordance with the relevant provisions of Community law, the detailed rules necessary for implementation of the adaptation period and the aptitude test;

(14) Whereas, since it covers two levels of education and training and since the initial general system covers a third level, the complementary general system must lay down whether and under what conditions a person possessing a certain level of education and training may pursue, in another Member State, a profession the qualifications for which are regulated at a different level;

(15) Whereas, for the pursuit of certain professions, certain Member States require the possession of a diploma within the meaning of Directive 89/48/EEC, while for the same profession other Member States require the completion of professional education or training with a different structure; whereas certain kinds of education and training, while not of a post-secondary nature of minimum duration within the meaning of this Directive, nevertheless result in a comparable professional level and prepare the person for similar responsibilities and activities; whereas such education and training should therefore be classed in the same category as that attested by a diploma; whereas such education and training is very varied and this classification can be achieved only by listing the courses in question; whereas such classification would, where appropriate, establish the recognition of equivalence between such education and training and that covered by Directive 89/48/EEC; whereas some regulated education and training should also be classed at diploma level in a second list;

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(16) Whereas, in view of the constantly changing organisation of professional training, there should be a procedure for amending those lists;

(17) Whereas, since it covers occupations the pursuit of which is dependent on the possession of professional or vocational education and training qualifications of secondary level and generally requires manual skills, the complementary general system must also provide for the recognition of such qualifications even where they have been acquired solely through professional experience in a Member State which does not regulate such professions;

(18) Whereas the aim of this general system, like the first general system, is to eliminate obstacles to the taking up and pursuit of regulated professions; whereas work carried out pursuant to Council Decision 85/368/EEC of 16 July 1985 on the comparability of vocational training qualifications between the Member States of the European Community (5), while pursuing a different objective from the elimination of legal obstacles to freedom of movement, namely that of improving the transparency of the labour market, must be used, where appropriate, in the application of this Directive, particularly where it could provide information on the subject, content and duration of professional training;

(19) Whereas professional bodies and professional educational and training establishments should, where appropriate, be consulted or be involved in an appropriate way in the decision-making process;

(20) Whereas, like the initial system, such a system, by strengthening the right of a Community national to use his occupational skills in any Member State, supplements and reinforces his right to acquire such skills wherever he wishes;

(21) Whereas the two systems should be evaluated, after a certain period of application, in order to determine how efficiently they operate and, in particular, how they can both be improved,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

Definitions

Article 1

For the purposes of this Directive, the following definitions shall apply:

(a) diploma: any evidence of education and training or any set of such evidence:

- which has been awarded by a competent authority in a Member State, designated in accordance with the laws, regulations or administrative provisions of that State,
- which shows that the holder has successfully completed:

  (i) either a post-secondary course other than that referred to in the second indent of Article 1 (a) of Directive 89/48/EEC, of at least one year's duration or of equivalent duration on a part-time basis, one of the conditions of entry of which is, as a general rule, the successful completion of the secondary course required to obtain entry to university or higher education, as well as the professional training which may be required in addition to that post-secondary course;

  (ii) or one of the education and training courses in Annex C, and
- which shows that the holder has the professional qualifications required for the taking up or pursuit of a regulated profession in that Member State,

provided that the education and training attested by this evidence was received mainly in the Community, or outside the Community at teaching establishments which provide education and training in accordance with the laws, regulations or administrative provisions of a Member State, or that the holder thereof has three years' professional experience certified by the Member State which recognised third-country evidence of education and training.

The following shall be treated in the same way as a diploma within the meaning of the first subparagraph: any evidence of education and training or any set of such evidence awarded by a competent authority in a Member State if it is awarded on the successful completion of education and training received in the Community and recognized by a competent authority in that member State as being of an equivalent level and if it confers the same rights in respect of the taking up and pursuit of a regulated profession in that Member State;

(b) certificate: any evidence of education and training or any set of such evidence:

- which has been awarded by a competent authority in a Member State, designated in accordance with the laws, regulations or administrative provisions of that State,
- which shows that the holder, after having followed a secondary course, has completed:

  (i) either a course of education or training other than courses referred to in point (a), provided at an educational or training establishment or on the job, or in combination at an educational or training establishment and on the job, and complemented, where appropriate, by the probationary or professional practice required in addition to this course,

  (ii) or the probationary or professional practice required in addition to this secondary course, or
- which shows that the holder, after having followed a secondary course of a technical or vocational nature has completed, where necessary,

  (i) either a course of education or training as referred to in the previous indent,

  (ii) or the probationary or professional practice required in addition to this secondary course of a technical or vocational nature and
- which shows that the holder has the professional qualifications required for the taking up or pursuit of a regulated profession in that Member State,

provided that the education and training attested by this evidence was received mainly in the Community, or outside the Community at teaching establishments which provide education and training in accordance with the laws, regulations or administrative provisions of a Member State, or that the holder thereof has two years' professional experience certified by the Member State which recognized third-country evidence of education and training.

The following shall be treated in the same was as a certificate, within the meaning of the first subparagraph: any evidence of education and training or any set of such evidence awarded by a competent authority in a Member State if it is awarded on the successful completion of education and training received in the Community and recognized by a competent authority in a Member State as being of an equivalent level and if it confers the same rights in respect of the taking up and pursuit of a regulated profession in that Member State;

(c) attestation of competence: any evidence of qualifications:

- attesting to education and training not forming part of a set constituting a diploma within the meaning of Directive 89/48/EEC or a diploma or certificate within the meaning of this Directive, or

- awarded following an assessment of the personal qualities, aptitudes or knowledge which it is considered essential that the applicant have for the pursuit of a profession by an authority designated in accordance with the laws, regulations or administrative provisions of a Member State, without proof of prior education and training being required;

(d) host Member State: any Member State in which a national of a Member State applies to pursue a profession subject to regulation in that Member State, other than the State in which he obtained his evidence of education and training or attestation of competence or first pursued the profession in question;

(e) regulated profession: the regulated professional activity or range of activities which constitute this profession in a Member State;

(f) regulated professional activity: a professional activity the taking up or pursuit of which, or one of its modes of pursuit in a Member State, is subject, directly or indirectly, by virtue of laws, regulations or administrative provisions, to the possession of evidence of education and training or an attestation of competence. The following in particular shall constitute a mode of pursuit of a regulated professional activity:

- pursuit of an activity under a professional title, in so far as the use of such a title is reserved to the holders of evidence of education and training or an attestation of competence governed by laws, regulations or administrative provisions,
- pursuit of a professional activity relating to health, in so far as remuneration and/or reimbursement for such an activity is subject by virtue of national social security arrangements to the possession of evidence of education and training or an attestation of competence.

Where the first subparagraph does not apply, a professional activity shall be deemed to be a regulated professional activity if it is pursued by the members of an association or organization the purpose of which is, in particular, to promote and maintain a high standard in the professional field concerned and which, to achieve that purpose, is recognized in a special form by a Member State and:

- awards evidence of education and training to its members,
- ensures that its members respect the rules of professional conduct which it prescribes, and
- confers on them the right to use a professional title or designatory letters, or to benefit from a status corresponding to that education and training.

Whenever a Member State grants the recognition referred to in the second subparagraph to an association or organization which satisfies the conditions of that subparagraph, it shall inform the Commission thereof;

(g) regulated education and training: any education and training which:

- is specifically geared to the pursuit of a given profession, and
- comprises a course or courses complemented, where appropriate, by professional training or probationary or professional practice, the structure and level of which are determined by the laws, regulations or administrative provisions of that Member State or which are monitored or approved by the authority designated for that purpose;

(h) professional experience: the actual and lawful pursuit of the profession concerned in a Member State;

(i) adaptation period: the pursuit of a regulated profession in the host Member State under the responsibility of a qualified member of that profession, such period of supervised practice possibly being accompanied by further education and training. This period of supervised practice shall be the subject of an assessment. The detailed rules governing the adaptation period and its assessment shall be laid down by the competent authorities in the host Member State.

The status enjoyed in the host Member State by the person undergoing the period of supervised practice, in particular in the matter of right of residence as well as of obligations, social rights and benefits, allowances and remuneration, shall be established by the competent authorities in that Member State in accordance with applicable Community law;

(j) aptitude test: a test limited to the professional knowledge of the applicant, made by the competent authorities of the host Member State with the aim of assessing the ability of the applicant to pursue a regulated profession in that Member State.

In order to permit this test to be carried out, the competent authorities shall draw up a list of subjects which, on the basis of a comparison of the education and training required in the Member State and that received by the applicant, are not covered by the evidence of education and training possessed by the applicant. These subjects may cover both theoretical knowledge and practical skills required for the pursuit of the profession.

This aptitude test must take account of the fact that the applicant is a qualified professional in the Member State of origin or the Member State from which he comes. It shall cover subjects to be selected from those on the list referred to in the second subparagraph, knowledge of which is essential to the pursuit of the profession in the host Member State. The test may also include knowledge of the professional rules applicable to the activities in question in the host Member State. The detailed application of the aptitude test shall be determined by the competent authorities of that State.

The status in the host Member State of the applicant who wishes to prepare himself for the aptitude test in that State shall be determined by the competent authorities in that State, in accordance with applicable Community law.

CHAPTER II

Scope

Article 2

This Directive shall apply to any national of a Member State wishing to pursue a regulated profession in a host Member State in a self-employed capacity or as an employed person.

This Directive shall apply to neither professions which are the subject of a specific Directive establishing arrangements for the mutual recognition of diplomas by Member States, nor activities covered by a Directive listed in Annex A.

The Directives listed in Annex B shall be made applicable to the pursuit as an employed person of the activities covered by those Directives.

CHAPTER III

System for recognition where a host Member State requires possession of a diploma within the meaning of this Directive or Directive 89/48/EEC

Article 3

Without prejudice to Directive 89/48/EEC, where, in a host Member State, the taking up or pursuit of a regulated profession is subject to possession of a diploma, as defined in this Directive or in Directive 89/48/EEC, the competent authority may not, on the grounds of inadequate qualifications, refuse to authorize a national of a Member State to take up or pursue that profession on the same conditions as those which apply to its own nationals:

(a) if the applicant holds the diploma, as defined in this Directive or in Directive 89/48/EEC, required in another Member State for the taking up or pursuit of the profession in question in its territory, such diploma having been awarded in a Member State; or

(b) if the applicant has pursued the profession in question full-time for two years, or for an equivalent period on a part-time basis, during the previous 10 years in another Member State which does not regulate that profession within the meaning of either Article 1 (e) and the first subparagraph of Article 1 (f) of this Directive or Article 1 (c) and the first subparagraph of Article 1 (d) of Directive 89/48/EEC, and possesses evidence of education and training which:

- has been awarded by a competent authority in a Member State, designated in accordance with the laws, regulations or administrative provisions of that State, and
- either shows that the holder has successfully completed a post-secondary course, other than that referred to in the second indent of Article 1 (a) of Directive 89/48/EEC, of at least one year's duration, or of equivalent duration on a part-time basis, one of the conditions of entry of which is, as a general rule, the successful completion of the secondary course required to obtain entry to university or higher education, as well as any professional training which is an integral part of that post-secondary course,
- or attests to regulated education and training referred to in Annex D, and
- has prepared the holder for the pursuit of his profession.

However, the two years' professional experience referred to above may not be required where the evidence of education and training held by the applicant and referred to in this point is awarded on completion of regulated education and training.

The following shall be treated in the same way as the evidence of education and training referred to in the first subparagraph of this point: any evidence of education and training or any set of such evidence awarded by a competent authority in a Member State if it is awarded on the completion of education and training received in the Community and is recognized by that Member State as being of an equivalent level, provided that the other Member States and the Commission have been notified of this recognition.

By way of derogation from the first subparagraph of this Article, the host Member State is not required to apply this Article where the taking up or pursuit of a regulated profession is subject in its country to possession of a diploma as defined in Directive 89/48/EEC, one of the conditions for the issue of which shall be the completion of a post-secondary course of more than four years duration.

Article 4

1. Notwithstanding Article 3, the host Member State may also require the applicant:

(a) to provide evidence of professional experience, where the duration of the education and training adduced in support of his application, as laid down in points (a) and (b) of the first subparagraph of Article 3, is at least one year less than that required in the host Member State. In this event, the period of professional experience required may not exceed:

- twice the shortfall in duration of education and training where the shortfall relates to a post-secondary course and/or to a period of probationary practice carried out under the control of a supervising professional person and ending with an examination,
- the shortfall where the shortfall relates to professional practice acquired with the assistance of a qualified member of the profession concerned.

In the case of diplomas within the meaning of the second subparagraph of Article 1 (a), the duration of education and training recognized as being of an equivalent level shall be determined as for the education and training defined in the first subparagraph of Article 1 (a).

When these provisions are applied, account must be taken of the professional experience referred to in point (b) of the first subparagraph of Article 3.

In any event, the professional experience required may not exceed four years.

Professional experience may not, however, be required of an applicant holding a diploma attesting to a post-secondary course as referred to in the second indent of Article 1 (a) or a diploma as defined in Article 1 (a) of Directive 89/48/EEC who wishes to pursue his profession in a host Member State which requires the possession of a diploma or evidence of education and training attesting to one of the courses of education and training as referred to in Annexes C and D;

(b) to complete an adaptation period not exceeding three years or take an aptitude test where:

- the theoretical and/or practical matters covered by the education and training which he has received as laid down in points (a) or (b) of the first subparagraph of Article 3 differ substantially from those covered by the diploma, as defined in this Directive or in Directive 89/48/EEC, required in the host Member State, or
- in the case referred to in point (a) of the first subparagraph of Article 3, the profession regulated in the host Member State comprises one or more regulated professional activities which do not form part of the profession regulated in the Member State from which the applicant originates or comes and that difference corresponds to specific education and training required in the host Member State and covers theoretical and/or practical matters which differ substantially from those covered by the diploma, as defined in this Directive or in Directive 89/48/EEC, adduced by the applicant, or
- in the case referred to in point (b) of the first subparagraph of Article 3, the profession regulated in the host Member State comprises one or more regulated professional activities which do not form part of the profession pursued by the applicant in the Member State from which he originates or comes, and that difference corresponds to specific education and training required in the host Member State and covers theoretical and/or practical matters which differ substantially from those covered by the evidence of education and training adduced by the applicant.

Should the host Member State make use of this possibility, it must give the applicant the right to choose between an adaptation period and an aptitude test. Where the host Member State, which requires a diploma as defined in Directive 89/48/EEC or in this Directive, intends to introduce derogations from an applicant's right to choose, the procedure laid down in Article 14 shall apply.

By way of derogation from the second subparagraph of this point, the host Member State may reserve the right to choose between the adaptation period and the aptitude test if

- a profession is involved the pursuit of which requires a precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant feature of the professional activity, or
- where the host Member State makes access to the profession or its pursuit subject to the possession of a diploma as defined in Directive 89/48/EEC, one of the conditions for the award of which is the completion of a post-secondary course of at least three years' duration or an equivalent period on a part-time basis and the applicant holds either a diploma as defined in this Directive or evidence of education and training within the meaning of point (b) of the first subparagraph of Article 3 and not covered by Article 3 (b) of Directive 89/48/EEC.

2. However, the host Member State may not apply the provisions of paragraph 1 (a) and (b) cumulatively.

CHAPTER IV

System for recognition where a host Member State requires possession of a diploma and the applicant is the holder of a certificate or has received corresponding education and training

Article 5

Where, in a host Member State, the taking up or pursuit of a regulated profession is subject to possession of a diploma, the competent authority may not, on the grounds of inadequate qualifications, refuse to authorize a national of a Member State to take up or pursue that profession on the same conditions as those which apply to its own nationals:

(a) if the applicant holds the certificate required in another Member State for the taking up or pursuit of the same profession in its territory, such certificate having been awarded in a Member State; or

(b) if the applicant has pursued the same profession full-time for two years during the previous 10 years in another Member State which does not regulate that profession, within the meaning of Article 1 (e) and the first subparagraph of Article 1 (f), and possesses evidence of education and training:

- which was been awarded by a competent authority in a Member State, designated in accordance with the laws, regulations or administrative provisions of that State, and
- which shows that the holder, after having followed a secondary course, has completed:

  (i) either a course of professional education or training other than courses referred to in point (a), provided at an educational or training establishment or on the job, or in combination at an educational or training establishment and on the job and complemented, where appropriate, by the probationary or professional practice which is an integral part of that training course,

(ii) **or the probationary or professional practice which is an integral part of that secondary course, or**

- which shows that the holder, after having followed a secondary course of a technical or vocational nature has completed, where necessary,

  (i) either a course of professional education or training as referred to in the previous indent,

  (ii) or the period of probationary or professional practice which is an integral part of that secondary course of a technical or vocational nature and

- which has prepared the holder for the pursuit of this profession.

However, the two years' professional experience referred to above may not be required where the evidence of education and training held by the applicant and referred to in this point is awarded on completion of regulated education and training.

Nevertheless, the host Member State may require the applicant to undergo an adaptation period not exceeding three years or take an aptitude test. The host Member State must give the applicant the right to choose between an adaptation period and an aptitude test.

Where the host Member State intends to introduce derogations from an applicant's right to choose, the procedure laid down in Article 14 shall apply.

CHAPTER V

System for recognition where a host Member State requires possession of a certificate

Article 6

Where, in the host Member State, the taking up or pursuit of a regulated profession is subject to possession of a certificate, the competent authority may not, on the grounds of inadequate qualifications, refuse to authorize a national of a Member State to take up or pursue that profession on the same conditions as those which apply to its own nationals:

(a) if the applicant holds the diploma, as defined in this Directive or in Directive 89/48/EEC, or the certificate required in another Member State for the taking up or pursuit of the profession in question in its territory, such diploma having been awarded in a Member State; or

(b) if the applicant has pursued the profession in question full-time for two years or for an equivalent period on a part-time basis during the previous 10 years in another Member State which does not regulate that profession, within the meaning of Article 1 (e) and the first subparagraph of Article 1 (f), and possesses evidence of education and training:

- which has been awarded by a competent authority in a Member State, designated in accordance with the laws, regulations or administrative provisions of that State, and

- which shows that the holder has successfully completed a post-secondary course other than that referred to in the second indent of Article 1 (a) of Directive 89/48/EEC, of at least one year's duration or of equivalent duration on a part-time basis, one of the conditions of entry of which is, as a general rule, the completion of the secondary course required to obtain entry to university or higher education, as well as any professional training which is an integral part of that post-secondary course, or

- which shows that the holder, after having followed a secondary course, has completed:

(i) either a course of education or training for a profession other than courses referred to in point (a), provided at an educational establishment or on the job, or in combination at an educational establishment and on the job and complemented, where appropriate, by the probationary or professional practice which is an integral part of that training course,

(ii) or the probationary or professional practice which is an integral part of that secondary course, or

- which shows that the holder, after having followed a secondary course of a technical or vocational nature has completed, where necessary,

(i) either a course of education or training for a profession as referred to in the previous indent,

(ii) or the period of probationary or professional practice which is an integral part of that secondary course of a technical or vocational nature and

- which has prepared the holder for the pursuit of this profession.

However, the two years' professional experience referred to above may not be required where the evidence of education and training held by the applicant and referred to in this point is awarded on completion or regulated education and training.

(c) if the applicant who does not hold any diploma, certificate or other evidence of education and training within the meaning of Article 3 (b) or of point (b) of this Article has pursued the profession in question full-time for three consecutive years, or for an equivalent period on a part-time basis, during the previous 10 years in another Member State which does not regulate that profession within the meaning of Article 1 (e) and the first subparagraph of Article 1 (f).

The following shall be treated in the same way as the evidence of education and training referred to under (b) in the first subparagraph: any evidence of education and training or any set of such evidence awarded by a competent authority in a Member State if it is awarded on the completion of education and training received in the Community and is recognized by that Member State as being of an equivalent level, provided that the other Member States and the Commission have been notified of this recognition.

Article 7

Without prejudice to Article 6, a host Member State may also require the applicant to:

(a) complete an adaptation period not exceeding two years or to take an aptitude test when the education and training which he received in accordance with points (a) or (b) of the first subparagraph of Article 6 relates to theoretical or practical matters differing substantially from those covered by the certificate required in the host Member State, or where there are differences in the fields of activity characterized in the host Member State by specific education and training relating to theoretical or practical matters differing substantially from those covered by the applicant's evidence of formal qualifications.

Should the host Member State make use of this possibility, it must give the applicant the right to choose between an adaptation period and an aptitude test. Where the host Member State which requires a certificate intends to introduce derogations as regards an applicant's right to choose, the procedure laid down in Article 14 shall apply;

(b) undergo an adaptation period not exceeding two years or take an aptitude test where, in the instance referred to in point (c) of the first subparagraph of Article 6, he does not hold a diploma, certificate or other evidence of education and training. The host Member State may reserve the right to choose between an adaptation period and an aptitude test.

CHAPTER VI

Special systems for recognition of other qualifications

Article 8

Where, in the host Member State, the taking up or pursuit of a regulated profession is subject to possession of an attestation of competence, the competent authority may not, on the grounds of inadequate qualifications, refuse to authorize a national of a Member State to take up or pursue that profession on the same conditions as those which apply to its own nationals:

(a) if the applicant holds the attestation of competence required in another Member State for the taking up or pursuit of the same profession in its territory, such attestation having been awarded in a Member State; or

(b) if the applicant provides proof of qualifications obtained in other Member States,

and giving guarantees, in particular in the matter of health, safety, environmental protection and consumer protection, equivalent to those required by the laws, regulations or administrative provisions of the host Member State.

If the applicant does not provide proof of such an attestation or of such qualifications the laws, regulations or administrative provisions of the host Member State shall apply.

Article 9

Where, in the host Member State, the taking up or pursuit of a regulated profession is subject only to possession of evidence of education attesting to general education at primary or secondary school level, the competent authority may not, on the grounds of inadequate qualifications, refuse to authorize a national of a Member State to take up or pursue that profession on the same conditions as those which apply to its own nationals if the applicant possesses formal qualifications of the corresponding level, awarded in another Member State.

This evidence of formal qualifications must have been awarded by a competent authority in that Member State, designated in accordance with its own laws, regulations or administrative provisions.

CHAPTER VII

Other measures to facilitate the effective exercise of the right of establishment, freedom to provide services and freedom of movement of employed persons

Article 10

1. Where the competent authority of the host Member State requires of persons wishing to take up a regulated profession proof that they are of good character or repute or that they have not been declared bankrupt, or suspends or prohibits the pursuit of that profession in the event of serious professional misconduct or a criminal offence, that State shall accept as sufficient evidence, in respect of nationals of Member States wishing to pursue that profession in its territory, the production of documents issued by competent authorities in the Member State of origin or the Member State from which the foreign national comes showing that those requirements are met.

Where the competent authorities of the Member State of origin or of the Member State from which the foreign national comes do not issue the documents referred to in the first subparagraph, such documents shall be replaced by a declaration on oath – or, in Member States where there is no provision for declaration on oath, by a solemn declaration – made by the person concerned before a competent judicial or administrative authority or, where appropriate, a notary or qualified professional body of the Member State of origin or the Member State from which the person comes; such authority or notary shall issue written confirmation attesting the authenticity of the declaration on oath or solemn declaration.

2. Where the competent authority of the host Member State requires of nationals of that Member State wishing to take up or pursue a regulated profession a statement of physical of mental health, that authority shall accept as sufficient evidence in this respect the production of the document required in the Member State of origin or the Member State from which the foreign national comes.

Where the Member State of origin or the Member State from which the foreign national comes does not impose any requirements of this nature on those wishing to take up or pursue the profession in question, the host Member State shall accept from such nationals a statement issued by a competent authority in that State corresponding to the statement issued in the host Member State.

3. The competent authority of the host Member State may require that the documents and statements referred to in paragraphs 1 and 2 are presented no more than three months after their date of issue.

4. Where the competent authority of the host Member State requires nationals of that Member State wishing to take up or pursue a regulated profession to take an oath or make solemn declaration and where the form of such oath or declaration cannot be used by nationals of other Member States, that authority shall ensure that an appropriate and equivalent form of oath or declaration is offered to the person concerned.

Article 11

1. The competent authorities of host Member States shall recognize the right of nationals of Member States who fulfil the conditions for the taking up and pursuit of a regulated profession in their territory to use the professional title of the host Member State corresponding to that profession.

2. The competent authority of the host Member State shall recognize the right of nationals of Member States who fulfil the conditions for the taking up and pursuit of a regulated profession in the territory to use their lawful academic title and, where appropriate, the abbreviation thereof deriving from their Member State of origin or the Member State from which they come, in the language of that State. The host Member State may require this title to be followed by the name and location of the establishment or examining board which awarded it.

3. Where a profession is regulated in the host Member State by an association or organization referred to in Article 1 (f), nationals of Member States shall be entitled to use the professional title or designatory letters conferred by that organization or association only on proof of membership.

Where the association or organization makes membership subject to certain qualification requirements, it may apply these to nationals of other Member States who are in possession of a diploma within the meaning of Article 1 (a), a certificate within the meaning of Article 1 (b) or evidence of education and training or qualification within the meaning of point (b) of the first subparagraph of Article 3, point (b) of the first subparagraph of Article 5 or Article 9 in accordance only with this Directive, in particular Articles 3, 4 and 5.

Article 12

1. The host Member State shall accept as means of proof that the conditions laid down in Articles 3 to 9 are satisfied the documents issued by the competent authorities in the Member States, which the person concerned shall submit in support of his application to pursue the profession concerned.

2. The procedure for examining an application to pursue a regulated profession shall be completed as soon as possible and the outcome communicated in a reasoned decision of the competent authority in the host Member State not later than four months after presentation of all the documents relating to the person concerned. A remedy shall be available against this decision or the absence thereof, before a court or tribunal in accordance with the provisions of national law.

CHAPTER VIII

Procedure for coordination

Article 13

1. Member States shall designate, within the period provided for in Article 17, the competent authorities empowered to receive the applications and take the decisions referred to in this Directive. They shall communicate this information to the other Member States and to the Commission.

2. Each Member State shall designate a person responsible for coordinating the activities of the authorities referred to in paragraph 1 and shall inform the other Member States and the Commission to that effect. His role shall be to promote uniform application of this Directive to all the professions concerned. This coordinator shall be a member of the coordinating group set up under the aegis of the Commission by Article 9 (2) of Directive 89/48/EEC.

The coordinating group set up under the aforementioned provision of Directive 89/48/EEC shall also be required to:

- facilitate the implementation of this Directive,
- collect all useful information for its application in the Member States, particularly information relating to the establishment of an indicative list of regulated professions and to the disparities between the qualifications awarded in the Member States with a view to assisting the competent authorities of the Member States in their task of assessing whether substantial differences exist.

The group may be consulted by the Commission on any changes to the existing system which may be contemplated.

3. The Member States shall take measures to provide the necessary information on the recognition of diplomas and certificates and on other conditions governing the taking up of the regulated professions within the framework of this Directive. To carry out this task they may call upon the existing information networks and, where appropriate, the relevant professional associations or organizations. The Commission shall take the necessary initiatives to ensure the development and coordination of the communication of the necessary information.

CHAPTER IX

Procedure for derogating from the right to choose between adaptation period and aptitude test

Article 14

1. If, pursuant to the second sentence of the second subparagraph of Article 4 (1) (b), the third subparagraph of Article 5, or the second sentence of the second subparagraph of Article 7 (a), a Member State proposes not to grant applicants the right to choose between an adaptation period and an aptitude test, it shall immediately communicate to the Commission the corresponding draft provision. It shall at the same time notify the Commission of the grounds which make the enactment of such a provision necessary.

The Commission shall immediately notify the other Member States of any draft which it has received; it may also consult the coordinating group referred to in Article 13 (2) on the draft.

2. Without prejudice to the possibility for the Commission and the other Member States to make comments on the draft, the Member State may adopt the provision only if the Commission has not taken a decision to the contrary within three months.

3. At the request of a Member State or the Commission, Member States shall communicate to them, without delay, the definitive text of any provision arising from the application of this Article.

CHAPTER X

Procedure for amending Annexes C and D

Article 15

1. The lists of education and training courses set out in Annexes C and D may be amended on the basis of a reasoned request from any Member State concerned to the Commission. All appropriate information and in particular the text of the relevant provisions of national law shall accompany the request. The Member State making the request shall also inform the other Member States.

2. The Commission shall examine the education and training course in question and those required in the other Member States. It shall verify in particular whether the qualification resulting from the course in question confers on the holder:

- a level of professional education or training of a comparably high level to that of the post-secondary course referred to in point (i) of the second indent of the first subparagraph of Article 1 (a),
- a similar level of responsibility and activity.

3. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

4. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

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5. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission shall defer for a period of two months the application of the measures which it has decided.

6. The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

7. The Commission shall inform the Member State concerned of the decision and shall, where appropriate, publish the amended list in the Official Journal of the European Communities.

CHAPTER XI

Other provisions

Article 16

Following the expiry of the period provided for in Article 17, Member States shall communicate to the Commission, every two years, a report on the application of the system introduced.

In addition to general remarks, this report shall contain a statistical summary of the decisions taken and a description of the main problems arising from the application of this Directive.

Article 17

1. Member States shall adopt the laws, regulations and administrative provisions necessary for them to comply with this Directive before 18 June 1994. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, the latter shall include a reference to this Directive or be accompanied by such reference at the time of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

Article 18

Five years at the latest following the date specified in Article 17, the Commission shall report to the European Parliament, the Council and the Economic and Social Committee on the progress of the application of this Directive.

After conducting all necessary consultations, the Commission shall present its conclusions as to any changes which need to be made to this Directive. At the same time the Commission shall, where appropriate, submit proposals for improving the existing rules in the interest of facilitating freedom of movement, right of establishment and freedom to provide services.

Article 19

This Directive is addressed to the Member States.

Done at Luxembourg, 18 June 1992.

For the Council: The President VITOR MARTINS

ANNEX A

List of the Directives referred to in the second subparagraph of Article 2

1. 64/429/EWG (1) Council Directive of 7 July 1964, concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in manufacturing and processing industries falling within ISIC Major Groups 23-40 (Industry and small craft industries)

64/427/EEC (2) Council Directive of 7 July 1964, laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in manufacturing and processing industries falling within ISIC Major Groups 23-40 (Industry and small craft industries)

2. 68/365/EEC (3) Council Directive of 15 October 1968, concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in the food manufacturing and beverage industries (ISIC Major Groups 20 and 21)

68/366/EEC (4)Council Directive of 15 October 1968, laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in the food manufacturing and beverage industries (ISIC Major Groups 20 and 21)

3. 64/223/EEC (5) Council Directive of 25 February 1964 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities in wholesale trade

64/224/EEC (6) Council Directive of 25 February 1964 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of intermediaries in commerce, industry and small craft industries

64/222/EEC (7) Council Directive of 25 February 1964 laying down detailed provisions concerning transitional measures in respect of activities in wholesale trade and activities of intermediaries in commerce, industry and small craft industries

4. 68/363/EEC (8) Council Directive of 15 October 1968 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in retail trade (ISIC ex Group 612)

68/364/EEC (9) Council Directive of 15 October 1968 laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in retail trade (ISIC ex Group 612)

5. 70/522/EEC (10) Council Directive of 30 November 1970 concerning the attainment of freedom to provide services in respect of activities of self-employed persons in the wholesale coal trade and activities of intermediaries in the coal trade (ISIC ex Group 6112)

70/523/EEC (11) Council Directive of 30 November 1970 laying down detailed provisions concerning transitional measures in respect of activities of intermediaries in the coal trade (ISIC ex Group 6112)

6. 74/557/EEC (12) Council Directive of 4 June 1974 on the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons and of intermediaries engaging in the trade and distribution of toxic products

74/556/EEC (13) Council Directive of 4 June 1974 laying down detailed provisions concerning transitional measures relating to activities, trade in and distribution of toxic products and activities entailing the professional use of such products including activities of intermediaries

7. 68/367/EEC (14) Council Directive of 15 October 1968 concerning the attainment of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in the personal services sector (ISIC ex Major Group 85):1. restaurants, cafes, taverns and other drinking and eating places (ISIC Group 852);2. hotels, rooming houses, camps and other lodging places (ISIC Group 853)

68/368/EEC (15) Council Directive of 15 October 1968 laying down detailed provisions concerning transitional measures in respect of activities of self-employed persons in the personal services sector (ISIC ex Major Group 85):1. restaurants, cafes, taverns and other drinking and eating places (ISIC Group 852);2. hotels, rooming houses, camps and other lodging places (ISIC Group 853)

8. 77/92/EEC (16) Council Directive of 13 December 1976 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of the activities of insurance agents and brokers (ex ISIC Group 630) and, in particular, transitional measures in respect of those activities

9. 82/470/EEC (17) Council Directive of 29 June 1968 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of activities of self-employed persons in certain services incidental to transport and travel agencies (ISIC Group 720)

10. 82/489/EEC (18) Council Directive of 19 July 1982 laying down measures to facilitate the effective exercise of the right of establishment and freedom to provide services in hairdressing

11. 75/368/EEC (19) Council Directive of 16 June 1975 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of various activities (ex ISIC Division 01 to 85) and, in particular, transitional measures in respect of those activities

12. 75/369/EEC (20) Council Directive of 16 June 1975 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of itinerant activities and, in particular, transitional measures in respect of those activities

ANNEX B

List of the Directives referred to in Article 2, third subparagraph

These are the Directives listed under headings 1 to 7 of Annex A, with the exception of Directive 74/556/EEC listed under heading 6.

ANNEX C

List of courses having a special structure as referred to in point (ii) of the second indent of the first subparagraph of Article 1 (a)

1. Paramedical and childcare training courses

In Germany

training for:

- paediatric nurse ('Kinderkrankenschwester/Kinderkrankenpfleger'),
- physiotherapist ('Krankengymnast(in)'),
- occupational therapist ('Beschaeftigungs- und Arbeitstherapeut(in)'),
- speech therapist ('Logopaede/Logopaedin'),- orthoptist ('Orthoptist(in)'),
- State-recognized childcare worker ('Staatlich anerkannte(r) Erzieher(in)'),
- State-recognized remedial teacher ('Staatlich anerkannte(r) Heilpaedagoge(-in)').

In Italy

training for:

- dental technician ('odontotecnico'),
- optician ('ottico'),
- chiropodist ('podologo').

In Luxembourg

training for:

- medical X-ray technician (assistant(e) technique médical(e) en radiologie),
- medical laboratory technician (assistant(e) technique médical(e) de laboratoire),
- psychiatric nurse (infirmier/ière psychiatrique),
- medical technician – surgery (assistant(e) technique médical(e) en chirurgie),
- paediatric nurse (infirmier/ière puériculteur/trice),
- nurse – anaesthetics (infirmier/ière anesthésiste),
- qualified masseur/masseuse (masseur/euse diplômé(e)),
- childcare worker (éducateur/trice),which represent education and training courses of a total duration of at least thirteen years, comprising:
  - either at least three years of vocational training in a specialized school culminating in an examination, in some cases supplemented by a one or two-year specialization course culminating in an examination,- or at least two and a half years in a specialized school culminating in an examination and supplemented by work experience of at least six months or by a traineeship of at least six months in an approved establishment,
  - or at least two years in a specialized school culminating in an examination and supplemented by work experience of at least one year or by a traineeship of at least one year in an approved establishment.

In Austria

training for:

- contact lens optician ("Kontaktlinsenoptiker"),
- pedicurist ("Fusspfleger"),
- acoustic-aid technician ("Hoergeraeteakustiker"),
- druggist ("Drogist")

which represent education and training courses of a total duration of at least fourteen years, including at least five years' training followed within a structured training framework, divided into an apprenticeship of at least three years' duration, comprising training partly received in the workplace and partly provided by a vocational training establishment, and a period of professional practice and training, culminating in a professional examination conferring the right to exercise the profession and to train apprentices,

- masseur ("Masseur")

which represents education and training courses of a total duration of fourteen years, including five years' training within a structured training framework, comprising an apprenticeship of two years' duration, a period of professional practice and training of two years' duration and a training course of one year culminating in a professional examination conferring the rights to exercise the profession and to train apprentices,

- kindergarten worker ("Kindergaertner/in"),
- child care worker ("Erzieher")

which represent education and training courses of a total duration of thirteen years, including five years of professional training in a specialized school, culminating in an examination.

2. Master craftsman sector ('Mester/Meister/Maître') which represents education and training courses concerning skills not covered by the Directives listed in Annex A

In Denmark

training for:

- ('optometrist') optician
  - this course is of a total duration of 14 years, including five years' vocational training divided into two-and-a-half years' theoretical training provided by the vocational training establishment and two-and-a-half years' practical training received in the workplace, and culminating in a recognized examination relating to the craft and conferring the right to use the title 'Mester';
- orthopaedic technician ('Ortopaedimekaniker')
  - this course is of a total duration of 12,5 years, including three-and-a-half years' vocational training divided into six months' theoretical training provided by the vocational training establishment and three years' practical training received in the workplace, and culminating in a recognized examination relating to the craft and conferring the right to use the title 'Mester';

- orthopaedic boot and shoemaker ('ortopaediskomager')
  - this course is of a total duration of 13,5 years, including four-and-a-half years' vocational training divided into two years' theoretical training provided by the vocational training establishment and two-and-a-half years' practical training received in the workplace, and culminating in a recognized examination relating to the craft and conferring the right to use the title 'Mester'.

In Germany

training for:

- optician ('Augenoptiker'),
- dental technician ('Zahntechniker'),
- surgical truss maker ('Bandagist'),
- hearing-aid maker ('Hoergeraete-Akustiker'),
- orthopaedic technician ('Orthopaediemechaniker'),
- orthopaedic bootmaker ('Orthopaedieschuhmacher').

In Luxembourg

training for:

- dispensing optician ('opticien'),
- dental technician ('mécanicien dentaire'),
- hearing-aid maker ('audioprothésiste'),
- orthopaedic technician/surgical truss maker ('mécanicien orthopédiste/bandagiste'),
- orthopaedic bootmaker ('orthopédiste-cordonnier').

These courses are of a total duration of 14 years, including at least five years' training followed within a structured training framework, partly received in the workplace and partly provided by the vocational training establishment, and culminating in an examination which must be passed in order to be able to practise any activity considered as skilled, either independently or as an employee with a comparable level of responsibility.

In Austria

training for:

- surgical truss maker ("Bandagist"),
- corset maker ("Miederwarenerzeuger"),
- optician ("Optiker"),
- orthopaedic shoemaker ("Orthopaedieschuhmacher"),
- orthopaedic technician ("Orthopaedietechniker"),
- dental technician ("Zahntechniker"),
- gardener ("Gaertner"),

which represent education and training of a total duration of at least fourteen years, including at least five years' training within a structured training framework, divided into apprenticeship of at least three years' duration, comprising training received partly in the workplace and partly provided by a vocational training establishment, and a period of professional practice and training of at least two years' duration culminating in mastership examination conferring the rights to exercise the profession, to train apprentices and to use the title "Meister",

training for master craftsmen in the field of agriculture and forestry, namely,

- master in agriculture ("Meister in der Landwirtschaft"),
- master in rural home economics ("Meister in der laendlichen Hauswirtschaft"),
- master in horticulture ("Meister im Gartenbau"),
- master in market gardening ("Meister im Feldgemuesebau"),
- master in pomology and fruit-processing ("Meister im Obstbau und in der Obstverwertung"),
- master in viniculture and wine-production ("Meister im Weinbau und in der Kellerwirtschaft"),
- master in dairy farming ("Meister in der Molkerei- und Kaesereiwirtschaft"),
- master in horse husbandry ("Meister in der Pferdewirtschaft"),
- master in fishery ("Meister in der Fischereiwirtschaft"),
- master in poultry farming ("Meister in der Gefluegelwirtschaft"),
- master in apiculture ("Meister in der Bienenwirtschaft"),
- master in forestry ("Meister in der Forstwirtschaft"),
- master in forestry plantation and forest management ("Meister in der Forstgarten- und Forstpflegewirtschaft"),
- master in agricultural warehousing ("Meister in der landwirtschaftlichen Lagerhaltung"),

which represent education and training of a total duration of at least fifteen years, including at least six years' training followed within a structured training framework divided into an apprenticeship of at least three years' duration, comprising training partly received in the workplace and partly provided by a vocational training establishment, and a period of three years of professional practice culminating in a mastership examination relating to the profession and conferring the rights to train aprentices and to use the title "Meister".

3. Seafaring sector

a) Sea transport

In Denmark

training for:

- ship's captain ('skibsfoerer'),
- first mate ('overstyrmand'),
- quartermaster, deck officer ('enestyrmand, vagthavende styrmand'),

- deck officer ('vagthavende styrmand'),
- engineer ('maskinchef'),
- first engineer ('1. maskinmester'),
- first engineer/duty engineer ('1. maskinmester/vagthavende maskinmester').

In Germany

training for:

- captain, large coastal vessel ('Kapitaen AM'),
- captain, coastal vessel ('Kapitaen AK),
- deck officer, large coastal vessel ('Nautischer Schiffsoffizier AMW'),
- deck officer, coastal vessel ('Nautischer Schiffsoffizier AKW'),
- chief engineer, grade C ('Schiffsbetriebstechniker CT – Leiter von Maschinenanlagen'),
- ship's mechanic, grade C ('Schiffsmaschinist CMa – Leiter von Maschinenanlagen'),
- ship's engineer, grade C ('Schiffsbetriebstechniker CTW'),
- ship's mechanic, grade C – solo engineer officer ('Schiffsmaschinist CMaW – Technischer Alleinoffizier').

In Italy

training for:

- deck officer ('ufficiale di coperta'),
- engineer officer ('ufficiale di macchina').

In the Netherlands

training for:

- first mate (coastal vessel) (with supplementary training) ['stuurman kleine handelsvaart (met aanvulling)'],
- coaster engineer (with diploma) ('diploma motordrijver'), which represents training:
  - in Denmark, of nine years' primary schooling followed by a course of basic training and/or service at sea of between 17 and 36 months, supplemented by:
    - for the deck officer, one year of specialized vocational training,
    - for the others, three years of specialized vocational training,
  - in Germany, of a total duration of between 14 and 18 years, including a three-year course of basic vocational training and one year's service at sea, followed by one or two years of specialized vocational training supplemented, where appropriate, by two year's work experience in navigation,
  - in Italy, of a total duration of 13 years, of which at least five years consist of professional training culminating in an examination, and are supplemented, where appropriate, by a traineeship,
  - in the Netherlands, involving a course of 14 years, at least two years of which takes place in a specialized vocational training establishment, supplemented by a twelve month traineeship,and which are recognized under the International STCW Convention (International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978).

b) Sea fishing

In Germany

training for:

- captain, deep-sea fishing ('Kapitaen BG/Fischerei'),
- captain, coastal fishing ('Kapitaen BK/Fischerei'),
- deck officer, deep-sea vessel ('Nautischer Schiffsoffizier BGW/Fischerei'),
- deck officer, coastal vessel ('Nautischer Schiffsoffizier BKW/Fischerei').

In the Netherlands

training for:

- first mate/engineer V ('stuurman werktuigkundige V'),
- engineer IV (fishing vessel) ('werktuigkundige IV visvaart'),
- first mate IV (fishing vessel) ('stuurman IV visvaart'),
- first mate/engineer VI ('stuurman werktuigkundige VI'), which represents training:
  - in Germany, of a total duration of between 14 and 18 years, including a three-year course of basic vocational training and one year's service at sea, followed by one or two years of specialized vocational training supplemented, where appropriate, by two-years' work experience in navigation,
  - in the Netherlands, involving a course varying in duration between thirteen and fifteen years, at least two years of which are provided in a specialized vocational school, supplemented by a 12-month period of work experience,and is recognized under the Torremolinos Convention (1977 International Convention for the Safety of Fishing Vessels).

4. Technical sector

In Italy

training for:

- building surveyor ('geometra'),
- land surveyor ('perito agrario'),
- accountant ('ragioniere'), and accountancy expert ('perito commerciale'),
- work consultants ('consulente del lavoro')

which represents secondary technical courses of a total duration of at least 13 years, comprising eight years' compulsory schooling followed by five years' secondary study, including three years' vocational study, culminating in the Technical Baccalaureat examination, and supplemented,

- for building surveyors by: either a traineeship lasting at least two years in a professional office, or five years' work experience, and
- for land surveyors, accountants, accountancy experts and work consultants, by the completion of a practical traineeship lasting at least two years,followed by the State Examination.

In the Netherlands

training for:

- bailiff ('gerechtsdeurwaarder')

which represents a course of study and vocational training totalling nineteen years, comprising eight years' compulsory schooling followed by eight years' secondary education including four years' technical education culminating in a State examination and supplemented by three years' theoretical and practical vocational training.

In Austria

training for:

- forester ("Foerster"),
- technical consulting ("Technisches Buero"),
- labour leasing ("UEberlassung von Arbeitskraeften – Arbeitsleihe"),
- employment agent ("Arbeitsvermittlung"),
- investment adviser ("Vermoegensberater"),
- private investigator ("Berufsdetektiv"),
- security guard ("Bewachungsgewerbe"),
- real estate agent ("Immobilienmakler"),
- real estate manager ("Immobilienverwalter"),
- advertising and promotion agency ("Werbeagentur"),
- building project organizer ("Bautraeger, Bauorganisator, Baubetreuer"),
- debt-collecting institute ("Inkassoinstitut"),

which represent education and training of a total duration of at least 15 years, comprising eight years' compulsory schooling followed by a minimum of five years' secondary technical or commercial study, culminating in a technical or commercial matura examination, supplemented by at least two years' workplace education and training culminating in a professional examination,

- insurance consultant ("Berater in Versicherungsangelegenheiten"),

which represents education and training of a total duration of 15 years, including six years' training followed within a structured training framework, divided into an apprenticeship of three years' duration and a three-year period of professional practice and training, culminating in an examination,

- master builder/planning and technical calculation ("Planender Baumeister"),
- master woodbuilder/planning and technical calculation ("Planender Zimmermeister"),

which represent education and training of a total duration of at least 18 years, including at least nine year's vocational training divided into four years' secondary technical study and five years' professional practice and training culminating in a professional examination conferring the rights to exercise the profession and to train apprentices, in so far as this training relates to the right to plan buildings, to make technical calculations and to supervise construction work ("the Maria Theresian privilege").

5. United Kingdom courses accredited as National Vocational Qualifications or Scottish Vocational Qualifications

Training for:

- medical laboratory scientific officer,
- mine electrical engineer,
- mine mechanical engineer,
- approved social worker – mental health,
- probation officer,
- dental therapist,
- dental hygienist,
- dispensing optician,
- mine deputy,
- insolvency practitioner,
- licensed conveyancer,
- prosthetist,
- first mate – freight/passenger ships – unrestricted,
- second mate – freight/passenger ships – unrestricted,
- third mate – freight/passenger ships – unrestricted,
- deck officer freight/passenger ships – unrestricted,
- engineer officer – freight/passenger ships – unlimited trading area,
- trade mark agent,

leading to qualifications accredited as National Vocational Qualifications (NVQs) or approved or recognized as equivalent by the National Council for Vocational Qualifications, or in Scotland accredited as Scottish Vocational Qualifications, at levels 3 and 4 of the United Kingdom National Framework of Vocational Qualifications.

These levels are defined as follows:

- Level 3: competence in a broad range of varied work activities performed in a wide variety of contexts and most of which are complex and non-routine. There is considerable responsibility and autonomy and control or guidance of others is often required,
- Level 4: competence in a broad range of complex, technical or professional work activities performed in a wide variety of contexts and with a substantial degree of personal responsibility and autonomy. Responsibility for the work of others and the allocation of resources is often present.

ANNEX D

List of courses having a special structure as referred to in the third indent of point (b) of the first subparagraph of Article 3

In the United Kingdom

Regulated courses leading to qualifications accredited as National Vocational Qualifications (NVQs) by the National Council for Vocational Qualifications or in Scotland accredited as Scottish Vocational Qualifications, at levels 3 and 4 of the United Kingdom National Framework of Vocational Qualifications.

These levels are defined as follows:

- Level 3: competence in a broad range of varied work activities performed in a wide variety of contexts and most of which are complex and non-routine. There is considerable responsibility and autonomy, and control or guidance of others is often required.
- Level 4: competence in a broad range of complex, technical or professional work activities performed in a wide variety of contexts and with a substantial degree of personal responsibility and autonomy. Responsibility for the work of others and the allocation of resources is often present.

In Germany

The following regulated courses:

- Regulated courses preparatory to the pursuit of the professions of technical assistant ("technische(r) Assistent(in)"), commercial assistant ("kaufmaennische(r) Assistent(in)"), social professions ("soziale Berufe") and the profession of state-certified respiration and elocution instructor ("staatlich gepruefte(r) Atem-, Sprech- und Stimmlehrer(in)"), of a total duration of at least 13 years, which require successful completion of the secondary course of education ("mittlerer Bildungsabschluss") and which comprise:

  (i) at least three years (1) of vocational training at a specialized school ("Fachschule") culminating in an examination and, where applicable, supplemented by one-year or two-year specialization course also culminating in an examination;

  (ii) or at least two and a half years at a specialized school ("Fachschule") culminating in an examination and supplemented by work experience of a duration of not less than six months or a traineeship of not less than six months in an approved establishment;

  (iii) or at least two years at a specialized school ("Fachschule") culminating in an examination and supplemented by work experience of a duration of not less than one year or a traineeship of not less than one year in an approved establishment,

- Regulated courses for the professions of state-certified ("staatlich gepruefte(r)") technician ("Techniker(in)"), business economist ("Betriebswirt(in)") , designer ("Gestalter(in)") and family assistant ("Familienpfleger(in)"), of a total duration of not less than 16 years, a prerequisite of which is successful completion of compulsory schooling or equivalent education and training (of a duration of not less than nine years) and successful completion of a course at a trade school ("Berufsschule") of a duration of not less than three years and comprising, upon completion of at least two years of work experience, full-time education and training of a duration of not less than two years or part-time education and training of equivalent duration,

- Regulated courses and regulated in-service training, of a total duration of not less than 15 years, a prerequisite of which is, generally speaking, successful completion of compulsory schooling (of a duration of not less than nine years) and of vocational training (normally three years) and which generally comprise at least two years of work experience (three years in most cases) and an examination in the context of in service training preparation for which generally comprises a training course which is either concurrent with the experience (at least 1 000 hours) or is attended on a full-time basis (at least one year).

The German authorities shall send to the Commission and to the other Member States a list of the training courses covered by this Annex.

Annex 2

The scope of the 2nd general directive in Denmark

The division in levels is in compliancewith Article 1 a) & b) of the directive.

Seafaring sector – Competent Authority: The Danish Maritime Authority

Level 2:

- Master
- Chief mate
- Quartermaster,
- Officer in charge of a navigational watch
- Chief Engineer Officer
- Second Engineer Officer
- Watchkeeping Engineer Officer

Level 1:

- Master on ships of less than 1600 GRT
- Chief mate on ships of less than 1600 GRT
- Master (Home trade) on ships of less than 200 GRT
- Chief Mate (Home trade) on ships of less than 200 GRT
- Chief engineer (Mechanist, 1st Class on ships with propulsion power less than 3000 kW)
- Second Engineer officer, (Mechanist, 2nd Class on ships with propulsion power less than 3000 kW)
- Able ship's assistant
- Radio operator officer
- Master on fishing vessels (Skipper,1st Class, unlimited)
- Master on fishing vessels (Skipper, 3rd Class, Home trade)

The scope of Article 8:

- Ordinary ship's assistant
- Ship's cook
- Diver

Health sector – Competent Authority: The Danish Board of Health

Level 2:

- Optometrist
- Orthopaedic technician
- Orthopaedic boot and shoemaker
- Dental technician

Level 1:

- Dental hygienist
- Chiropodist
- Pharmacy assistant

Other professions:	*Competent Authority:*
Level 1:	
- Organist (certain occupations)	Ministry of Ecclesiastical Affairs
- Estate agent	Danish Commerce and Company Agency
- Driving instructor	Road Safety and Transport Agency
The scope of Article 8:	
- Fork stacker driver - Fork-lift driver - Crane driver (traverse- & gantry cranes) - Crane driver (cranes installed on trucks) - Crane driver (mobile cranes) - Tractor driver - Guard posts - Commercial use of approved weed killers for the purpose of controlling and preventing vegetation	The Labour Market Authority
- Parish clerk - Sexton - Gravedigger	Ministry of ecclesiastical Affairs
- Inseminator (cattle) - Inseminator (furred animal) - Inseminator (pig)	Ministry of Agriculture
- Occupations on off-shore installations	Ministry of Energy
- Sewerage works - Installation of gas heating systems of a capacity of more than 135 Kw	Ministry of Housing and Urban Affairs
- Occupations in fire-fighting services	Ministry of the Interior

European Training Foundation

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